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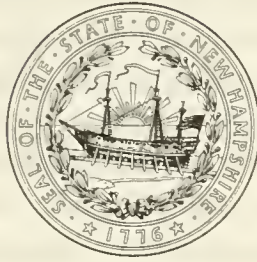
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# STATE OF NEW HAMPSHIRE



## ***ORGANIZATIONAL DAY***

*December 5, 1990*

The Clerk called the Senate to order at 1:00 p.m.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Welcome Aboard, is there anyone here with the winning lottery number for the Presidency of this Senate. Let us pray. May the Lord help you as you strive to set the tone, and the make up of this Senate and the leadership to follow! Good luck!!! God Bless!!! Amen*

Senator Blaisdell led the Pledge of Allegiance.

The Clerk, Gloria Randlett, called the Roll which showed the following Senators present: Oleson, W. King, Heath, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

There were 24 members present.

Recess to await the Governor and Council.  
Out of Recess.

Governor Gregg: Let me first state that it's a pleasure to see everyone this morning and that I'm joined, of course, by the Honorable Council, members of the Honorable Council. I am also joined by Senator elect Robert Smith. This being a historic occasion I think not only for the Senate of New Hampshire, but for American politics generally, as Senator Humphrey has submitted his resignation effective today and Senator elect Smith is here today as a participant and viewer of this event.

At that time, on the first Wednesday in December in the year of our Lord, one thousand and nine hundred and ninety being the day prescribed by the Constitution for the Legislature of New Hampshire to assemble at the Capitol in the City of Concord in said State, and Judd Gregg, Governor, and the Executive Council having come into the Senate Chambers, took and subscribed the oaths of office. "I do solemnly swear that I will bear faith and true allegiance to the United States of America and the State of New Hampshire and will support the constitutions thereof, so help me God. I do solemnly and sincerely swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent on me as State Senator according to the best of my abilities, agreeably to the rules and regulations of this constitution and laws of the state of New Hampshire so help me God." Congratulations. Senators agreeably: Oleson, W. King, Heath, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

Senator Blaisdell moved that Senator Hough be elected temporary presiding officer.

Senator Fraser seconded the motion.

Further nominations.

Senator Disnard moved that Robert Trowbridge be elected temporary presiding officer.

SENATOR DISNARD: Robert Trowbridge has served twelve years in the House and the Senate, six years as chair of the Senate Finance committee, twenty-five years as the moderator for the town of Dublin. He is the respected chairman of the Yankee Publishing Company and he certainly is a good Republican.

Senator St. Jean seconded the motion.

SENATOR ST. JEAN: I find Mr. Trowbridge to be fair and I offer my support.

Senator Heath moved that nominations be closed.

SENATOR HOUGH: Madame chair, my colleagues, both those of you with whom I have served in the past and will enjoy serving in the future. To my new colleagues who I have met briefly and look forward to an enjoyable service with in the months to come. I recognize the point that we find ourselves at this moment. I will tell you that I had met with my good friend Senator Trowbridge and we have had a discussion about the events here today. As I hold Senator



Trowbridge in the highest respect, he also would speak nothing but praise of myself. Soon we will be asked to make a determination and it is important that we move forward to a point where we can organize ourselves. The debate will center on whether we organize ourselves with one of our own or with a highly respected non-member. You will each vote the way you see in your conscience to be the best for this body and hopefully to allow us to move forward. But, I would tell you sincerely, there is not one of twenty-three members whose vote for or against my candidacy would be taken personally. I understand the body, I've served in the body, I have come to love the body. And as the days go forward and the months pass, you will understand the great bond amongst this very small family of twenty-four. There will be those of you who would choose to vote for a person to preside over the organization other than Ralph Hough, and I respect that. If we can accomplish organization, TAPE INAUDIBLE and I will sit, only asking you that while I do not see this as a pleasant task, I will attempt to assume the responsibility in fairness. If you have choices other than that, I will be relieved, knowing full well that nothing will be taken personally. Thank you.

The Clerk called the Roll call for Temporary Presiding Officer.

The following Senators voted for Senator Hough:

Senators Heath, Fraser, Hough, Dupont, Currier, Roberge, Blaisdell Colantuono, Podles, Humphrey, Russman, Delahunty.

The following Senators voted for Robert Trowbridge:

Senators Oleson, W. King, Disnard, Bass, Pressly, Nelson, McLane, J. King, St. Jean, Shaheen, Hollingworth, Cohen.

12 votes - Trowbridge

12 votes - Hough

No majority vote.

Recess.

Out of Recess.

## HOUSE MESSAGE

Mr. President:

The House of Representatives has organized and is ready to meet with the Senate in Joint Convention for the purpose of electing a State Treasurer and a Secretary of State.

The Clerk called for a Second Roll Call vote for Temporary Presiding Officer.

The following Senators voted for Senator Hough:

Senators Heath, Fraser, Hough, Dupont, Currier, Roberge, Blaisdell, Colantuono, Podles, Humphrey, Russman, Delahunty.

The following Senators voted for Robert Trowbridge:

Senators Oleson, W. King, Disnard, Bass, Pressly, Nelson, McLane, J. King, St. Jean, Shaheen, Hollingworth, Cohen.

12 votes - Trowbridge

12 votes - Hough

No majority vote.

Senator Humphrey moved the following resolution:

### RESOLUTION

RESOLVED, to meet in Joint Convention for the purpose of electing Secretary of State, State Treasurer, and for canvassing votes of the Governor and Councilors.

Adopted.

Senator Humphrey moved that the House be notified that the Senate is ready to meet in Joint Convention.

Adopted.

Recess for Joint Convention.

Out of Recess.

The nominees for the Presiding Officer are Robert Trowbridge, and Senator Hough.

Third Roll Call vote for Temporary Presiding Officer.

The following Senators voted for Senator Hough:

Senators Oleson, W. King, Heath, Fraser, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senator voted for Robert Trowbridge:

Senator Hough.

23 votes - Hough

1 vote - Trowbridge

Senator Hough was elected the Temporary Presiding Officer.

The Clerk requested Senator Fraser, and Senator Colantuono to escort Senator Hough to the rostrum.

Senator Hough in the chair.

The Presiding Officer asked for nominations for the Office of President of the Senate.

Senator St. Jean moved to place the name of Senator Dupont in nomination for Senate President.



SENATOR ST. JEAN: I'd like to place the name of my good friend over the years. We started here about the same time, my evil twin brother Edward Dupont, from the city of Rochester. It's been quite an ordeal for both of us. He is still my friend. It is my pleasure to place the name of Edward C. Dupont in nomination for Senate President.

Senator Delahunty seconded the motion.

SENATOR DELAHUNTY: Thank you Mr. Chairman, Senators, and Colleagues. I rise before you to second the nomination of Edward Dupont as President of the New Hampshire Senate. When we ask ourselves who will be capable of leading this body for the next two years, one name instantly comes to mind and that name is Ed Dupont. Only with strong and effective leadership will the New Hampshire Senate be capable of addressing the many difficult issues that will come before us. Only with strong leadership will our state continue to prosper, and only with strong effective leadership will New Hampshire be able to set its course for the remainder of this decade. Since I have known Ed Dupont, I have known him to be a leader. Whether it to be a Chairman of a committee, Majority leader, or a Senator concerned with a specific issue, Ed Dupont has shown that he can clearly articulate his views while still listening to and accepting the views of others. He is an individual who is knowledgeable in the operation of state government and has proven to be effective in bringing many diverse groups together. Ed Dupont will bring to the office of Senate President of the Senate a sense of the awesome responsibility which it holds in an understanding in the involvement of the Legislative process. As our Senate President, I am confident that he will guide this body with the insight and innovation needed to bring New Hampshire through these difficult economic times. More than ever before, the Granite State needs leadership. We are fortunate to have an individual amongst us who can provide this leadership, and one who is willing to commit time necessary to insure that our state continues to provide its citizens with a chance to succeed. I am proud to support Ed Dupont as Senate President and I urge all of you to join with me in electing him as the nominee. Thank you.

Senator Bass seconded the motion.

SENATOR BASS: Mr. President, I rise with great pleasure to second the nomination of my friend from Rochester, Ed Dupont. And by the way, for those of you who have read the papers recently, I'd like to report that he is indeed a Republican. It only goes to show that it is always true with the process in the Senate, what you see and what you read is not necessarily what will happen in the end. And I want

to use this opportunity to reaffirm the fact that I consider myself a member of the Republican party in good standing and it's a great pleasure that after this process which at times has been difficult, and at times there has been a little china broken. There's been times that we felt frustrated, but in the end we have come forward in a unified fashion to support Senator Dupont for Senate President. Senator Dupont is a hard worker, he is effective, he knows the Senate, and he knows how to run the Senate. And that is going to be particularly important over the next six months. Not only like Senator Delahunty mentioned, we have a lot of problems to solve, but we also are blessed with a lot of new individuals and new faces in the Senate and it is not going to be an easy job to preside over this body. I am calling upon all of my colleagues at this time to give their whole-hearted support to Ed Dupont as he faces the difficult issues that lie ahead of us because we all have a common interest now, in making the Senate a success in 1991.

Senator Podles seconded the motion.

SENATOR PODLES: Mr. Chairman and Senators, I also would like to second the nomination of Ed Dupont for Senate President. Ed has earned my respect from the very beginning of his first term. Together we shared an office and we shared the same secretary. I found him to be a quiet individual with a style of his own: an organized, no nonsense individual. He judged legislation based on its public good rather than its association with political parties or a special interest group. Over the years we served on a number of committees together. He represents a rare combination of judgments, imagination, and immunity to pressure. Leadership is a function of what has to be done and who can do it best. Ed's experience, his knowledge, and expertise are most appropriate. Please join with me in nominating Ed Dupont for The President of the Senate.

Senator Heath moved that nominations cease and further instructs the Clerk, Gloria Randlett, to cast one vote for the nomination of Edward C. Dupont, Jr. as the next President of the State Senate.

Adopted.

Senators Heath and Currier escorted the new President of the Senate, Senator Edward C. Dupont, Jr. to the rostrum.

### **PRESIDENTS' MESSAGE**

PRESIDENT DUPONT: I guess I would first start off by obviously extending my thanks to all of you for your vote of confidence. It has been an interesting day, an interesting week, an interesting month. There are some personal comments that even though I know it is



late, that I certainly think are appropriate at this point and time. I need to speak to you a little bit about what obviously has been a difficult process. Senator St. Jean, a number of you in this body don't realize that when we came in together, we both had mustaches, and for the first three months we went around being continually confused as to which one was St. Jean and which one was Senator Dupont. I ultimately ended up shaving my mustache off and giving it to Senator St. Jean on the floor of the Senate, which was ultimately a start of a long and good friendship between the two of us, and I have no doubt that it will continue. We will, however, be seeing more of Senator St. Jean in the next session, I assure you of that, as he has pledged to me that he will continue to work hard as a State Senator and work with me to make this Senate someplace that we can all be very, very proud of. You know it is obviously difficult for me to stand up here tonight and not give just a brief word of thanks, to my wife, and my family, and my daughter — who I promised that before the day was over, if I was successful, that she could come up and sit in the seat behind me. So, ultimately, I will have to bring my daughter back and give her that privilege. Because, if some of you remember, the last time that we elected a Senate President there was an opportunity for her to do so, and so whenever I tell her that she is coming back to Concord she gets to sit in the big chair. So I will indulge that because I think this is a place not only just for a few of us old timers, but also, for the kids that are the future of our state. This has been obviously a very tedious and difficult process for me, but as I look around the room I don't think that there is anyone I see sitting in front of me that I have anything but great confidence in and that I share anything but great feelings for anyone of you. As much as this has been difficult for a number of us, and difficult between members of the same party, and I know that this has been the focus of all of our debate during the last month, how strong each one of our parties would be. I think that during it all I've been able to maintain, I think, what has been a good relationship with all of you, and I thank you for that. It has not been easy, however I have not met with anyone or spoken with anyone during the last few weeks that I think has any ill feeling towards me, and if I could have one wish tonight, it would be that we all forget the occurrences — not forget, but put them aside — the occurrences of the last few weeks and get on with the work of the Senate. Because, ultimately, it's the work for the people of the state. When I talk about the people of the state, I have to also give recognition to the communities that sent me here. We always talk about Rochester, and I assure you that you will be seeing more of Rochester in a number of bills that will come forward in the Senate because I always get criticized for that. But, also, Somersworth, and Rollinsford, and Barrington which are a part of my dis-

strict which sometimes get overlooked. Just a couple of other quick comments and I say this because the other thing that is significant about this body tonight is that we have had two distinguished individuals who have led our respective parties. Senator Preston and Senator Bartlett, who I think that all of us here have a great deal of respect for in how they have led their respective parties. They have been leaders of this body, the Republican leader and the Democratic leader and we start a new era without those two gentlemen, but certainly I consider both of them my good friends. They both have been a valuable resource to me. I bring that up because I think that it's an indication of what the relationship can be between both parties when led by individuals that want to make the process work. I know Senator Bartlett is up there and I extend my thanks to him for all the things that he has done for the Senate and for me personally over the years. It's been a great pleasure to work with him. The last point I would make is that one of the things that I think is significant about this Senate and the people that sit in the Senate, as it is going to be a more interesting place to be. I've said to many of you that the best thing that I can deliver is a Senate that will provide an open forum for debate, and that arguments in the Senate and issues in the Senate will be won on the quality of that debate and the quality of the arguments and the information that we put together for our colleagues to help them make decisions. And I think that is very, very important that we are not going to drive this Senate in one direction and another based on whether it's a Democratic issue or Republican issue or conservative, or liberal issue. We are going to try our hardest to make sure that the debate takes place on the merit of the issue that we are discussing. So with that, I will close and again thank you for your confidence in me, and I thank my family for putting up with me over the last few weeks. Also, I guess hopefully tomorrow I will be able to go to work for the first time in a week, and along with that, we have some chores ahead of us that we want to continue to do tonight. I again extend my sincere thanks and give you my assurance that I will do my best to live up to the great responsibility that you have put on my shoulders this evening. So with that, Gloria, we have a section for the introduction of guests and if anyone still has a guest here, I guess it would be appropriate at this time.

### INTRODUCTION OF GUESTS

Senator McLane placed the name of Gloria Randlett in nomination for Senate Clerk.

SENATOR McLANE: Thank you Mr. President. It is my pleasure at this late hour to introduce to you for your consideration, the cream of the crop. The woman who has made the day work. The



person who took over at a very hard and sad time in the Senates' history and did it with style and grace and confidence, and I am very happy to be nominating the first woman Clerk of either House or Senate in the history of the state of New Hampshire, Gloria Randlett.

Senator Heath seconded the nomination.

SENATOR HEATH: I rise to second what Senator McLane said and I was going to expand on her qualities and her confidence, but I think that you have already seen that demonstrated this evening, so I won't go on any further. I will gladly second that nomination.

Senator Blaisdell moved to close the nominations and one ballot be cast for Gloria Randlett.

Adopted.

Senator Podles moved to place the name of Jeanne Geiman in nomination for Assistant Clerk of the Senate.

SENATOR PODLES: I thank you Mr. President. I rise to nominate Jeanne Geiman as Assistant Clerk of the Senate. Since 1988 Jeanne has held a number of positions within the Clerks' office. She has served as a Calendar Clerk and the Journal Clerk. At one time being responsible for both positions simultaneously. And during the last session of the legislature she filled the Assistant Clerks' position, learning the process of electronic amending on the Wang system, also, bill docketing, and bill status. In two years Jeanne has learned the operation of the Clerks' Office. She will not need on-the-job training and we would be wise to put her many talents to use for the Senate in the position of Assistant Clerk. I urge all of you to cast a vote for Jeanne Geiman in the position of Assistant Clerk.

Senator Fraser seconded the nomination.

SENATOR FRASER: Thank you Mr. President. I am pleased to second the nomination of Jeanne Geiman for the position of Assistant Clerk. Jeanne has been the Journal Clerk and the acting Assistant Clerk for the Senate for this past session, having started in the Clerks Office as the Calendar Clerk two years ago. I appreciate your support of Jeanne Geiman.

Further nominations.

Senator St. Jean nominates Lois Schmelzer for Assistant Clerk.

SENATOR ST. JEAN: Members of the Senate, I'd like to nominate Lois Schmelzer from Concord who has been with us here in the Senate since 1987 as a Committee Secretary; the Health and Human

Services Committee with Elaine Krasker, which is one of our busiest committees here in the Senate. Before that she has worked as a Legal Secretary over at Sulloway, Hollis Law firm. It is my way of thinking for those of you who have contact with her, she is one of our best secretaries, and one of the best people who we have here. I urge support for this nomination.

Senator Disnard seconded the motion.

SENATOR DISNARD: Thank you, Mr. President. I second the nomination of Lois Schmelzer. She has been the secretary for the University Study Committee established by statute. She does an overwhelming and an exceptional job and put in many hours of her own towards the Minutes, and I am happy to be able to offer her support for nominee.

Recess

Out of Recess.

Senator W. King moved a secret ballot.

Senator Heath seconded the motion.

Adopted.

Senators Heath, and W. King are appointed tellers.

13 votes-Lois Schmelzer

10 votes-Jeanne Geiman

Lois E. Schmelzer is elected Assistant Clerk of the Senate.

Senator Currier moved that the name of Richard Wiggin be placed in nomination for Sergeant-At-Arms.

SENATOR CURRIER: Thank you ladies and gentlemen of the Senate. I rise to place the nomination of Richard Wiggin of Warner as the Senate Sergeant-At-Arms.

Senator Roberge seconded the motion.

SENATOR ROBERGE: I rise in motion for Dick Wiggin for Sergeant-At-Arms. We have known him to be courteous and helpful and we certainly will enjoy having him as our new reelected Sergeant-At-Arms.

Senator Bass seconded the motion.

SENATOR BASS: Mr. President, I also would like to second the nomination. Dick Wiggin has been extremely able and an attentive Sergeant-At-Arms, and as a person that sits almost as close to him as anybody can, I know how difficult his job can be, and how well he has carried out his responsibilities and I hope that we can support him for another term.

Senator Russman moved that the nominations be closed and one ballot be cast for Richard Wiggin, Sergeant-At-Arms.

Adopted.

Richard H. Wiggin is elected Sergeant-At-Arms.

Senator Heath moved that the name of Emile Martineau be placed in nomination for Doorkeeper.

SENATOR HEATH: Mr. President, it's a pleasure to nominate Emile Martineau. He has served in the capacity with good humor and faithfulness for the institution, and the long hours and considerable diplomacy. I would nominate him with a good deal of personal pleasure.

Senator Podles seconded the motion.

SENATOR PODLES: I second the nomination of Emile. He's been extremely helpful to the Senators in the past years and we need his services again.

Senator Humphrey moved that the nominations be closed and one ballot be cast for Emile Martineau, Doorkeeper.

Adopted.

Emile Martineau is elected Senate Doorkeeper.

The President administered the oaths of office to the Senate Clerk, Sergeant-At-Arms, and Doorkeeper.

Senator Roberge moved the following Resolution:

### RESOLUTION

RESOLVED, that the Secretary of State be requested to furnish the Senate with the Official return of votes from the various Senatorial Districts.

Adopted.

SECRETARY OF STATE: I know you've all been waiting for this for a long time.

It's my constitutional responsibility to give to you this evening the return of votes that were received by our office and report to you for each Senatorial District.

### FIRST DISTRICT

Otto H. Oleson, d	5,537
Donald G. Straw, r	4,302
Plurality for Oleson	<hr/> 1,235



**SECOND DISTRICT**

Wayne D. King, d	7,068
Mark Hounsell, r	5,509
Plurality for King	<u>1,559</u>

**THIRD DISTRICT**

Roger Heath, r	10,536
Shirley Ganem, d	5,443
Plurality for Heath	<u>5,093</u>

**FOURTH DISTRICT**

Leo W. Fraser, Jr., r	7,640
Dallas C. Gilbert, d	5,072
Plurality for Fraser	<u>2,568</u>

**FIFTH DISTRICT**

Ralph Degnan Hough, r&d	10,191
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**SIXTH DISTRICT**

Edward C. Dupont, Jr., r&d	9,640
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**SEVENTH DISTRICT**

David P. Currier, r&d	10,677
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**EIGHTH DISTRICT**

George F. Disnard, d	6,805
David D. Kibbey, r	4,824
Plurality for Disnard	<u>1,981</u>

**NINTH DISTRICT**

Sheila Roberge, r	10,138
Roger Hall, d	3,740
Plurality for Roberge	<u>6,398</u>

**TENTH DISTRICT**

Clesson J. Blaisdell, d	7,586
David A. Pierce, r	2,877
Plurality for Blaisdell	<u>4,709</u>

**ELEVENTH DISTRICT**

Charles F. Bass, r&d	11,570
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**TWELFTH DISTRICT**

Barbara B. Pressly, d	9,017
Thomas P. Magee, r	<u>3,715</u>
Plurality for Pressly	5,302

**THIRTEENTH DISTRICT**

Mary S. Nelson, d	5,074
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**FOURTEENTH DISTRICT**

Thomas Colantuono, r&d	10,481
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**FIFTEENTH DISTRICT**

Susan McLane, r&d	12,128
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**SIXTEENTH DISTRICT**

Eleanor P. Podles, r	8,610
Jean Cote, d	<u>4,462</u>
Plurality for Podles	4,148

**SEVENTEENTH DISTRICT**

Gordon J. Humphrey, r	9,104
Graham Chynoweth, d	<u>5,078</u>
Plurality for Humphrey	4,026

**EIGHTEENTH DISTRICT**

John A. King, d	5,677
Toni Pappas, r	<u>4,839</u>
Plurality for King	838

**NINETEENTH DISTRICT**

Richard Russman, r&d	10,473
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**TWENTIETH DISTRICT**

James R. St. Jean, d	4,495
William A. Dedrick, r	<u>3,868</u>
Plurality for St. Jean	627

**TWENTY-FIRST DISTRICT**

Jeanne Shaheen, d	6,292
Franklin Torr, r	<u>4,525</u>
Plurality for Shaheen	1,767

**TWENTY-SECOND DISTRICT**

Joseph L. Delahunty, r	8,196
Kenneth Bush, d	3,151
Plurality for Delahunty	<u>5,045</u>

**TWENTY-THIRD DISTRICT**

Beverly Hollingworth, d	7,246
Thomas U. Gage, r	6,704
Plurality for Hollingworth	<u>542</u>

**TWENTY-FOURTH DISTRICT**

Burt Cohen, d	5,892
Eugene Ritzo, r	5,020
Plurality for Cohen	<u>872</u>

SECRETARY OF STATE: Those, Mr. President, are the figures on the return of votes that I would like to present to you and the Senate this evening.

Senator Fraser moved the following Resolution:

**RESOLUTION**

RESOLVED, that the returns from the several Senatorial Districts be referred to a select committee of three with instruction to examine and count the same and report to the Senate where any vacancies or contest exists, and if so, in what Senatorial District.

Adopted.

The Chair appointed Senators Bass, Colantuono, and Shaheen, to examine the vote totals.

Recess.

Out of Recess.

**COMMITTEE REPORT**

The select committee to whom was referred the various return of votes for state Senators from the several districts, having attended to their duties and having examined the returns made to the Secretary of State and the records in the office of said Secretary, report that they find the state of the vote returned from the several districts to be correct.

SENATOR SHAHEEN: Everything is in order. Our committee works fast.

Adopted.

Senator Currier moved the following Resolution:

### RESOLUTION

RESOLVED, that the Clerk of the Senate be authorized to provide for the Biennium one daily or two weekly newspapers printed within the state to the members and officers of the Senate.

Adopted.

Senator Hough moved to the following Resolution:

### RESOLUTION

RESOLVED, that the rules of the 1989-90 session be adopted as the rules of the 1991-92 session and further that these rules may be changed by majority vote for the next two (2) legislative days.

Adopted.

Senator Roberge moved to the following Resolution:

### RESOLUTION

Relative to the salary and mileage payments  
to the members of the Senate.

RESOLVED, that the salary of the members of the Senate be paid in one undivided sum as early as practical after adoption of this Resolution, and be it further

RESOLVED, that mileage of members of the Senate be paid every two weeks during the session.

Adopted.

### ANNOUNCEMENTS

Senator Heath moved that the Senate be adjourned until the first Wednesday of January at 1:00 p.m.

Adopted.

Adjournment.

*January 2, 1991*

## CONVENING DAY

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord help us to work together within the spirit of a new beginning! To overcome the financial short falls we are faced with only by hardwork and straight forward insight can we accomplish those goals! Happy New Year and Good Luck!!* Amen

Senator W. King led the Pledge of Allegiance.

SENATE PRESIDENT: I would like to start off by extending to you my sincere wishes for a Happy New Year, as well as, a productive one for all of us who have the responsibility of conducting the business of the state. As part of our first day in, I thought it would be appropriate to ask the incoming Speaker, Harold Burns to come in and formally allow me to introduce him to the Senate, even though I know that many of you have had working relationships with Harold, but just to extend the Senate's warm welcome and congratulations to him. So, with that, I've asked if he would come over and he has made himself available and I would like him to perhaps say a few words to the Senate. So, if you will, Harold Burns, the new Speaker.

MR. SPEAKER: Thank you very much. It is a pleasure to come over here. I'm looking forward to working with your President and you this coming year. I thought that I would point out a few of the good things; I noticed that the former House Members are a Majority in the Senate. I hope you'll remember that when we need a vote. We also have three members that served on the Commerce Committee that I served on for so many years and that shows that we can go forward and obtain other things and I think that this is great. I think it's good that your President and I are meeting on a weekly basis. We have to keep in direct communication if we are going to do the business of the state in a very difficult and tough year. We're going to do that by working together. I have told all of my members that the door to my office is always open and happy to see you, and that extends to the Senate. I'm always available if you wish to discuss a matter with me. Again, I look forward to working with you and wish you God's speed.

## INTRODUCTION OF GUESTS

## INTRODUCTION OF STAFF

Legal Counsel: Ovide Lamontagne.

The President administered the oath of office to the Assistant Senate Clerk.

Recess.

Out of Recess.



## HOUSE MESSAGE

The House of Representatives is ready to meet the Senate in Joint Convention for the purpose of canvassing the votes for Governor and Councilors.

Recess for Joint Convention.

Out of recess.

## ANNOUNCEMENTS

Senator W. King (Rule #44).

SENATOR W. KING: I wanted to get up and say just a few words before we started the session because I think that this Senate has seldom convened under more difficult and demanding circumstances. As the holiday season approached 42,500 of our fellow citizens were unemployed. Many others live in fear of losing their jobs and still others have left New Hampshire to seek opportunity elsewhere. Notices of foreclosures in our daily papers remind us that families are losing their homes. Our rates of personal bankruptcy and welfare applications are among the highest in the country. The recession, and lending practices driven by real estate speculation, have taken a heavy toll on our banks, hindering their ability to provide badly needed credit to our businesses. Manufacturing employment has fallen to its lowest level since the early 1970's as our largest firms struggle to regain their positions in a dynamic, global marketplace. Real estate markets are glutted with unsold properties and yet even as prices fall property taxes continue to skyrocket. The severe and sudden change in our fortunes has shaken public confidence and we must fight to restore that confidence. For the second consecutive biennium we must tackle a budget deficit. But this time we face a larger deficit with far fewer resources at our command. Our deficit represents about 7% of our budget, among the highest in the country. And we are rightly reluctant to increase taxes on our weakened economy. None of us relish the difficult choices on both sides of the ledger - spending and revenues alike - that we must make in order to achieve fiscal stability in the coming biennium. But we must not become discouraged by the challenge. We must seize it as an opportunity. When our economy was thriving and our budget yielded surpluses the most popular slogan in this building was "If it ain't broke, don't fix it." Now I think we agree that there are some things that need fixing. That is good for New Hampshire. Government alone cannot restore the strength of our economy and the confidence of our citizens. But the people of New Hampshire look to us today, as seldom before, to face problems squarely, to be creative and responsible. They look to us to balance our budget without add-

ing to the hardships of the less fortunate among us. They look to us to provide leadership toward a more prosperous future. Above all they look to us to put government ahead of politics. To put public interest before partisan advantage. As we all discovered on December 5, 1990 this Senate can become evenly balanced or sharply divided. As a result of that process, the two parties will share power more equally in this session than they have in a long time. But with power comes responsibility which must also be shared. We must turn our balance and diversity to advantage without becoming mired in division and dissention which hinders our capacity to govern. Of course we will differ, sometimes bitterly, but we must strive for the common ground required to solve the most urgent problems affecting the people we represent. As one who has devoted much time and energy to economic development, especially in the North Country, I commend Senator Dupont for establishing a committee to tackle this important issue. In the past decade, our economy expanded without state government playing an aggressive role. With the growth of interstate competitiveness and the global market we must now seek out appropriate ways in which state government, in partnership with local government, trade associations, and private enterprise, can contribute to restoring and ensuring the strength of our economy. I believe that economic development issues offer an ideal opportunity for all of us, with our diverse backgrounds, views and skills, to work together on the most pressing issue confronting our state and its citizens. As we work toward a strategy for future economic development, we should take immediate steps to improve our infrastructure and stimulate economic activity by making full use of the state's bonding authority. With construction costs low, conditions have never been better for undertaking capital projects. Projects like the expansion of the Manchester Airport, the redevelopment of the Pease facility, the expansion of the Port of New Hampshire, and highway projects will generate employment and lay the foundation for future economic growth. As you know, tax reform, particularly property tax relief, was a theme of my reelection campaign. I believe that this Senate must begin the process of assessing the strengths and weaknesses of our fiscal system. We know from remarks by the Governor, the House Speaker and others, that we can expect proposals to change the way that we tax businesses. In considering these proposals we must not allow the need for revenues and questions of equity to obscure the economic aspects of our business tax. The way in which we tax business, the source of employment and income for the people of New Hampshire, will play a major role in determining the course of future economic development. Discussion of our business tax offers the opportunity to fashion a key element of our economic development strategy as well as to ensure



more stabile flows of revenue and more equitable treatment of businesses. But we must look beyond the business profits tax, particularly to property taxes. Despite the pledges of candidates, property taxes continue to rise, even as the values of properties and family incomes fall. We must work to fashion a tax system which produces revenues through economic growth without the need to reach still deeper into the pockets of average citizens each biennium with ever increasing taxes and fees. Our fiscal system was not designed to bear the weight of the many new responsibilities the federal Government has placed upon states and municipalities. These responsibilities will continue to mount during the coming decade as the federal Government struggles to balance its books. We must begin to prepare to meet these responsibilities by ensuring state government adequate and stabile revenues within the bounds of our traditional fiscally conservative approach to spending. I urge all of us to enter this session with an open mind. Ready and willing to explore all means of resolving the problems and facing the challenges before us. I look forward to working together with all of my colleagues in the Senate, on both sides of the aisle, to serve the people of New Hampshire.

Senator Disnard (Rule #44).

SENATOR DISNARD: One of our members has been placed at risk. Placed at risk by the Attorney General's Office. And if you stop and think about it, this could reflect on all Legislators both in the House and in the Senate. I refer specifically to the refusal of the Attorney General's Office to assist a Legislator responding to strong concerns of their constituents that has resulted in legal action and thus cost. I hope during this session we all will consider this and perhaps have a Resolution that will protect not only this Senator, it's been so neglected, but also, all of us, both the House and Senate. Thank you.

SENATOR DUPONT: Senator if I could just clarify that issue. The last time The Speaker of the House and I met we had a discussion about that very issue and one of the first charges that our legal counsel will have is to try and work with the House Counsel to try and develop some criteria for when representation is appropriate. I'm not comfortable with the fact that we would have members representing their constituents and not have the benefits of counsel if it's appropriate, so that will be dealt with.

Senator Delahunty (Rule #44).

SENATOR DELAHUNTY: It was certainly awfully good to hear that our fellow colleague from the North Country, calling, talking, and traveling to work together, to resolve the very and serious prob-

lems we have laying before us and I am certainly very pleased to hear that the both sides are going to get together and work in unison to maintain the good quality of life that we always enjoyed in the state of New Hampshire, and that we are able to continue to do so. I think that we all have been, and we have tried very hard to recognize the fact that we are going to be working together. There are going to be many differences of opinion, both on partisan issues and within our own parties. But from what I can see, and the way that we have worked together so far, in trying to respond to the problems that have to be resolved. I wish also in good faith and look forward to working in unison to resolve the problems that may face us. We look forward to it.

**ANNOUNCEMENT OF LEADERSHIP POSITIONS**

- Senate President: ..... Edward C. Dupont, Jr.
- President Pro Tem: ..... Eleanor P. Podles
- Vice President: ..... Sheila Roberge
- Dean Of The Senate: ..... Clesson J. Blaisdell
- Majority Leader: ..... Joseph L. Delahunty
- Assistant Majority Leader: ..... David P. Currier
- Majority Whip: ..... Leo W. Fraser, Jr.
- Assistant Majority Whips: ..... Thomas P. Colantuono  
..... Richard L. Russman
- Democrat Leader: ..... George F. Disnard
- Assistant Democrat Leader: ..... Mary S. Nelson
- Democrat Whip: ..... Wayne D. King
- Assistant Democrat Whip: ..... C. Jeanne Shaheen

**RESOLUTION**

RESOLVED, that the Senate having completed the business of the day does now adjourn until 11:00 a.m., Thursday, January 3, 1991.

Adopted.

Adjournment

*January 3, 1991*

The Senate met at 11:00 a.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord be with us on this day of the Inauguration of our Governor; Judd Gregg. We are also honored by a visit from our First Lady; Barbara Bush! God Bless us each and everyone. Amen*



Senator Hough led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### HOUSE MESSAGE

Mr. President:

The House of Representatives is ready to meet the Honorable Senate in Joint Convention for the purpose of hearing the report of the Joint Committee appointed to compare and count the votes for Governor and Councilors and the Inauguration of the Governor; the Honorable Judd Gregg.

Recess.

Out of Recess.

## INTRODUCTION OF GUESTS

Senator Hough offered a Committee Report.

SENATOR HOUGH: As the members should recall on Constitutional Day in December, we adopted the Rules of the 1989 Session and I now move that we amend the Rules of the 1989 Session to make the following changes to bring Senate Rules into reality with 1991. Senate Rule 17-A (a), the new date is Thursday, December 20, 1990 which would replace Wednesday, December 7, 1988. 17(b), Friday, December 28, 1990 which would replace the old date of Wednesday, December 21, 1988. 17(c), Wednesday, January 9, 1991 which would replace January 3, 1989. Further, the motion would be to amend Rule #27 to add the Committee on Economic Development, a change and an addition. The Committee on Environment, a change and an addition. The Committee on Wildlife and Recreation, a change and an addition. You have in front of you copies of the motion. The changes on #27 are underlined. The changes in 17a, b, and c are underlined, prior to the bracketed old dates. That's the motion, and I move its adoption.

Amend Senate Rules with the following:

17. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced into the Senate shall be delivered or caused to be delivered to the Office of Legislative Services, which in turn will submit it to the sponsor for his signature, and then to the Clerk by Legislative Services. If requested by the sponsor, a proposed bill, resolution or petition shall not be made public, except by the sponsor, until signed by the sponsor. During any adjournment the President may receive bills and resolutions for printing and for reference to committee, provided that no bill shall

have a public hearing until it is formally introduced into the Senate printed and available for distribution. The President shall take up all bills and resolutions for introduction at the early session.

17-A (a) No request by a member of the Senate for drafting a bill or a joint resolution, other than the general appropriations (budget) bill or the capital budget bill, shall be accepted by Legislative Services for processing unless the subject matter of the legislation has been filed with Legislative Services no later than Thursday, December 20, 1990. (old date Wed. Dec. 7, 1988.)

(b) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill, unless the complete information necessary for drafting such a bill or joint resolution is submitted to Legislative Services not later than 5:00 p.m. on Friday, December 28, 1990. (old date Wed. Dec. 21, 1988.)

(c) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m., on Wednesday, January 9, 1991. (old date Tues. Jan. 3rd 1989.)

(d) Notwithstanding the provisions of 17 (a), (b), and (c), a Senate bill, Senate joint resolutions, or Senate concurrent resolution may be accepted by Legislative Services for drafting and introduced into the Senate at any time prior to the deadline established by Joint Rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a two-thirds vote on the floor.

27. The standing committees of the Senate shall be as follows: The Committee on Finance, Committee on Capital Budget, Committee on Ways and Means, Committee on Banks, Committee on Economic Development, Committee on Education, Committee on Executive Departments, Committee on Environment, Committee on Insurance, Committee on Internal Affairs, Committee on Interstate Cooperation, Committee on Judiciary, Committee on Public Institutions, Health and Human Services, Committee on Public Affairs, Committee on Transportation, Committee on Wildlife and Recreation, and the Committees on Rules and Resolutions, Journal, and Enrolled Bills.

Recess.

Out of Recess.

Committee Report Adopted.

Senator Disnard offered a floor amendment.

**Floor Amendment to SR 17-A(c)**

SR 17-A(c) is repealed and reeacted to read as follows:

(c) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m., on Friday, January 11, 1991.

Recess.

Out of Recess.

SENATOR BLAISDELL: I've read the floor amendment and I know that there are a lot of Senators in this room that have had some problems with this date, I guess its tomorrow really. But can I ask maybe you or the Senate Clerk to tell me what this means about the hearing process of the bills? I don't have any problems with it, but does this mean that were going to lose our vacation in February if we are that far back? I'd like to know that.

SENATOR HOUGH: Temporary committees on Rules met in December and all members were invited to that meeting and we spent a goodly amount of time discussing the three dates in question. There were a number of new members to the Senate, Senator Hollingworth, Senator Shaheen, Senator W. King, who is not new. Clearly we were concerned with Legislative drafting, the title, the number, the drafting of material and sign off. Although, the discussions of the meeting were not binding on anyone, clearly I indicated that if you weren't comfortable with the proposed dates that we should discuss them then and there seemed to be a general consensus and agreement and we actually had proceeded with a date of January 4, I believe for final sign-off. Then we recognized that there would be problems getting everything out of Legislative Services and was tentatively agreed that we would use Wednesday. You must understand that having legislation signed-off in Legislative Services, it is then referred to the body for assignment of Committee. The Clerk posts the assignments in the Calendar and we have to have five days. So one thing you should be sensitive to is there will be no work at all on the week after next and we're beginning to get to a point where we're pushing our agenda forward. Obviously, you're going to have to make a determination on the Disnard motion. But I would caution you, that if you extend this to 5 p.m. on Friday it will really cost yourselves a week in terms of your committee hearings. Wednesday will allow under recess, for the reading in of the legislation, the assigning of committees, the posting in the Calendar five day notice, and you can begin to get to work. Obviously, the will of this body will dictate. Be sensitive to what 5 p.m. on Friday the



11th will do in terms of schedule. That is what Senator Blaisdell was referring to, and it is in the question of debate that can be verified by our Clerk because it will be her responsibility if this amendment is adopted.

SENATOR DISNARD: Two questions Senator Hough? Senator Hough, was it five working days or five calendar days that you were referring to?

SENATOR HOUGH: I'll defer, you want an honest answer Senator Disnard, the Clerk is responsible for the Calendar and I would defer to her that I am saying that you wipe out the Monday through Friday days of the third week in January. If that is not correct, then I stand corrected.

SENATOR DISNARD: Further question. Would you believe, Senator Hough, that I'm holding in front of me the amendments that you suggested and I read Wednesday, January 9? Would you believe I'm not convinced two days is going to make that much of a difference, because we're still going to lose most of the following week.

SENATOR HOUGH: She can draft her Calendar at 5:01 and get it to the printer and count Thursday, Friday, Monday, and Tuesday and have, I believe, Committee Hearings with five day notice on Wednesday, and your off and running.

SENATOR DISNARD: What was said previously by the previous speaker, there was a hearing, people attended and Senators did not attend. I think with the problems that we have been facing on both sides of the aisle, and there have been problems on both sides of the aisles, that's the holidays. I think that we should commend the legislative staff. I was watching the football game and enjoying myself on New Year's Day and they called up and were working. That indicates to me when I hear Senators on both sides of the aisle, recognize the fact that an amendment would be introduced changing the date to the eleventh. Many of them thought that it was a good idea, so from both sides of the aisle, spoke personally as members that it was a good idea, considering the timing, the holidays, the work load. I still think that we should vote and approve this amendment.

SENATOR CURRIER: I rise in opposition of the pending motion. I was a little frustrated also with terms of some of the deadlines. I mean, I entered into the computer yesterday a little afraid to find out how many bills that I have committed myself to and it came out and said 33. Of which I have only had time to read three. And with the sign-off date tomorrow, I obviously was going to have a lot of reading to do today and tomorrow. So, I was one of the people who look forward to having a couple of extra days, however, every day

that we add onto this schedule we are adding on to the other end. Quite frankly, this building is hot enough in February and March. But when it comes time in May and June it gets even hotter. I, for one, who am running a business and trying to maintain my legislative schedule, and my business schedule. I would like to get on with this business as soon as we can, and I am opposed to extending the deadline to the eleventh and would urge my colleagues to vote no on the pending motion.

SENATOR ST. JEAN: After listening to Senator Currier I think he said it all. Of the 33 pieces of legislation he has had time to read three. I can't imagine a weeks' time; in a weeks' time we're going to be in here till May and June with the extension of a week. We have a number of freshman Senators who were, all November long, were all involved in the Senate Presidency fight. Once they got their office space, all of a sudden they realized they had some deadlines come upon them. I think at the very least this is a matter of fairness in the extension to January 11, I think is a (TAPE INAUDIBLE).

SENATOR COLANTUONO: This is a parliamentary inquiry. I'd like to know before the vote is taken exactly when committee hearings would start under either of the proposals. Do you have that information?

PRESIDENT DUPONT: Senator, it's my understanding that with the January 9 deadline we could conceivably start hearings around the fifteenth of January which would be the following week. If we move to the eleventh there is a potential for us not to be able to get anything done on the week of the fourteenth that we could conceivably start the week of the twenty-first.

Senator Disnard called for a Division vote.

Yeas: 10

Nays: 12

Amendment Fails.

Recess.

Out of Recess.

Senator Hough moved that the report of the Rules Committee on Senate Rules as amended be adopted.

Adopted.

## RESOLUTION

Senator Delahunty moved, that the rules of the Senate be so far suspended as to allow Senate Rules to be placed on third reading, and final passage, and that they be passed at the present time.

Adopted.

**RULES OF THE SENATE**

1. Determination of quorum; correction of Journal.
2. Members, decorum of.
3. Members, conduct when speaking.
4. Members not to speak more than twice.
5. President shall recognize whom.
6. Questions of order, appeal.
7. Member, absenting himself.
8. Motions, order of preference.
9. Questions postponed indefinitely not acted upon in same bien-nium.
10. Questions, when divided.
11. Objections to reading paper, how determined.
12. Roll-Call, everyone must vote.
13. Galleries, clearing of.
14. Reconsideration, motion for.
15. Petitions, introduction of.
16. Bills; shall be numbered and expressed clearly.
17. Bills, introduction of.
- 17-A (a) Bills, deadlines for drafting.
- 17-b Bills, deadlines for information.
- 17-c Final deadline.
18. Resolutions to be treated as bills.
19. Bills shall have three readings; progress of; time for second and third readings.
20. Bills, printing and distribution.
21. Bills amended only on second reading; filing of amendments.
22. Public hearings to be held and advertised.
23. Amended bills, printed, distributed and disposed of.
24. Appropriating money, to whom referred.
25. President to sign bills, etc.
26. Committees, appointment of.
27. Standing Committees.
28. Messages sent to House.
29. Messages, when received.
30. Voting; division of Senate.
31. Visitors to Senate.
32. Hours of meeting.
33. Rules of Senate, how suspended.
34. Rules of Senate, how rescinded.
35. Committee of the whole.
36. President may name member to chair.
37. Senate staff; composition and duties.
38. Senate staff; days of employment.



39. Committees, reports and meetings.
40. Appeal, presiding officer ruling.
41. Motions, no substitution under color of amendment.
42. Conflict of interest.
43. Committee of Conference reports.
44. Personal privilege.
45. Requisition Approval Required.
46. Fiscal notes, requirements.

1. The President, having taken the chair, shall determine a quorum to be present. Any erroneous entry in the daily journal shall be corrected no later than the third succeeding legislative day, and the permanent journal corrected one week after the permanent journal copy is placed in the hands of the Senate.

2. No member shall hold conversation with another while a member is speaking in debate.

3. Every member, wishing to speak, shall address the President and when he has finished shall, if having risen to speak, then sit down.

4. No member shall speak more than twice on the same question on the same day without leave of the Senate.

5. More than one member rising to speak at the same time, the President shall decide who shall speak first.

6. If any member transgresses the rules of the Senate, the President shall, or any member may, call him to order; in which case the member so called to order shall immediately cease and desist, and the Senate, if appealed to, shall decide the case. But if there is no appeal, the decision of the President shall be conclusive.

7. No member shall absent himself without permission from the Senate.

8. When any question is under debate, no motion shall be received but first, to adjourn; second, to lay upon the table; third, for the previous question; fourth, to postpone to a certain day; fifth, to commit; sixth, to amend; and seventh, to postpone indefinitely; which several motions shall have precedence in the order in which they are so arranged. Motions to adjourn, to lay upon the table, for the previous question, and to take from the table shall be decided without debate. Motions to postpone to a certain day shall be debatable both as to time and subject matter. No motion to postpone indefinitely, to postpone to a certain day, or to commit, being decided, shall be in order at the same stage of the bill or resolution, until after adjournment.

9. A question which is postponed indefinitely shall not be acted upon during the biennium except whenever two-thirds of the whole number of elected Senators shall on division taken, vote in favor thereof. Any bill which is indefinitely postponed shall not be reintroduced under cover of an amendment to the general appropriations (budget) bill. No motion to suspend this rule shall be permitted.

10. Any member may call for a division of the question when those present sense will admit it. Unless otherwise specifically provided for, a majority of those present and voting shall be required to pass any vote.

11. When the reading of a paper or document is objected to by a member, the question shall be determined by a vote of the Senate; and without debate.

12. When the nays and yeas have been moved by a member and duly seconded by another member, each member present shall declare his assent or dissent to the question, unless for special reason he be excused by the Senate. The names of the persons so making the motion and the second shall be recorded in the Journal. A member who is to be absent when the yeas and nays are required may pair his vote with another member, to be present or also to be absent, who intends to vote on the opposite side of the question. Pairs shall be permitted only if the yeas and nays are taken on such question. Both members shall file such pair in writing with the Clerk before the question is put. In all cases of pairing, the vote of neither member shall be counted in determining the result of the roll call; but the Clerk shall announce all pairs and enter them in the Journal. The President shall determine the order to the roll call.

13. In case of any disturbance or disorderly conduct in the gallery, the President shall have the power to order the same to be cleared. The Chairman of the Committee of the Whole may restrict attendance to the duly elected Senators.

14. No vote shall be reconsidered, unless the motion for reconsideration be made by a member who voted with the prevailing side, nor unless the notice of such motion be given to the Senate in open session prior to adjournment on the same day on which the vote as passed, or on the next day on which the Senate shall be in session within one half hour after the convening of the early session, and any such notice of reconsideration shall be effective for three legislative days only and thereafter shall be null and void.

14 (a) Reconsideration of any bills subject to a transfer date established by joint rules must be acted on or before the joint rule deadline, and thereafter shall be null and void.

15. Before any petition shall be received and read, a brief statement of the contents thereof shall be made by the member introducing the same.

16. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced in the Senate, shall be endorsed with the name of the Senator presenting them, and with the subject matter of the same. Every bill shall be marked on the first page "Senate Bill" and numbered serially; every joint resolution shall be marked "Senate Joint Resolution" and numbered serially; every concurrent resolution proposing a constitutional amendment shall be marked "Concurrent Resolution Proposing a Constitutional Amendment" and numbered serially; and every other concurrent resolution shall be marked "Senate Concurrent Resolution" and numbered serially, as each bill or resolution is introduced into the Senate.

17. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced into the Senate shall be delivered or caused to be delivered to the Office of Legislative Services, which in turn will submit it to the sponsor for his signature, and then to the Clerk by Legislative Services. If requested by the sponsor, a proposed bill, resolution or petition shall not be made public, except by the sponsor, until signed by the sponsor. During any adjournment the President may receive bills and resolutions for printing and for reference to committee, provided that no bill shall have a public hearing until it is formally introduced into the Senate printed and available for distribution. The President shall take up all bills and resolutions for introduction at the early session.

17-A (a) No request by a member of the Senate for drafting a bill or a joint resolution, other than the general appropriations (budget) bill or the capital budget bill, shall be accepted by Legislative Services for processing unless the subject matter of the legislation has been filed with Legislative Services no later than Thursday, December 20, 1990.

(b) The Office of Legislative Services shall not draft a Senate bill or joint resolution, other than the general appropriations (budget) bill or the capital budget bill, unless the complete information necessary for drafting such a bill or joint resolution is submitted to Legislative Services not later than 5:00 p.m. on Friday, December 28, 1990.



(c) Every Senate bill and joint resolution, other than the general appropriations (budget) bill or the capital budget bill, must be signed off in Legislative Services by 5:00 p.m., on Wednesday, January 9, 1991.

(d) Notwithstanding the provisions of 17 (a), (b), and (c), a Senate bill, Senate joint resolutions, or Senate concurrent resolution may be accepted by Legislative Services for drafting and introduced into the Senate at any time prior to the deadline established by Joint Rules for the transfer of bills out of the first body if approved by either a majority of the Senate Rules Committee or a two-thirds vote on the floor.

18. All resolutions which may require the signature of the Governor shall be treated in the same manner as bills.

19. Every bill shall have three readings in the Senate previous to its passage. The first and second readings shall be by title only which may be accomplished by a conglomerate resolution, after which the bill shall be referred by the President to the appropriate committee and shall be printed as provided in Rule 20, unless otherwise ordered by the Senate. No bill after it has been read a second time shall have a third reading until after adjournment from the early session. The time assigned for the third reading of bills and resolutions shall be in the late session unless otherwise ordered by the Senate. The orders of the day for the reading of bills shall hold for every succeeding day until disposed of.

20. After every bill shall have been read a second time, and referred by the President to the appropriate committee, the Clerk shall procure a sufficient number of copies, printed on paper of uniform size, for the use of the legislature, and cause the same to be distributed to the members, and when printed the bill shall be immediately delivered to the committee to which it shall have been referred. Bills received from the House shall be printed at the same stage of their procedure unless they have been printed in the House and copies distributed in the Senate, in which case any amendment made by the House shall be duplicated and distributed in the Senate.

21. No amendment shall be made but upon the second reading of a bill; and all amendments to bills and resolutions shall be in writing, with the name of the Senator and the district he represents thereon. No amendment to any bill shall be proposed or allowed at any time or by any source, including a committee of conference, except it be germane. Amendments shall have been reviewed by the Office of Legislative Services for form, construction, statutory and chapter reference.

22. A hearing shall be held upon each bill referred to a committee, and notice of such hearing shall be advertised at least five days before hearing in the Senate Calendar.

23. When a bill is reported favorably with an amendment, the report of the committee shall state the amendment, and then recite the section of the bill in full as amended. The amendment shall be printed in the calendar of the Journal on the date that the report is listed for action. If no action is taken on that day, then the amendment shall be printed on the day to which the bill has been referred. All bills reported shall be laid upon the table and shall not be finally acted upon until the following legislative day, and a list of such bills with the report thereon shall be published in the Journal for the day on which action shall be taken.

24. Every bill and joint resolution appropriating money, which has been referred to another committee and favorably accepted by the Senate, shall be committed to the Committee on Finance for review. If any such bills have been referred jointly to the Committee on Finance and another standing committee, the Committee on Finance may report separately and a further public hearing may be held at the discretion of the Committee on Finance. All bills appropriating money, which are referred to the Committee on Finance may have only one hearing.

25. All warrants, subpoenas and other processes issued by order of the Senate shall be under the hand and seal of the President attested by the Clerk.

26. All committees of the Senate, including Senate members on committees of conference, shall consist of members of both parties as nearly equal as possible, provided that on all committees, both parties shall be represented. The President shall appoint the members of all committees, after consulting with the minority leader.

27. The standing committees of the Senate shall be as follows: The Committee on Finance, Committee on Capital Budget, Committee on Ways and Means, Committee on Banks, Committee on Economic Development, Committee on Education, Committee on Executive Departments, Committee on Environment, Committee on Insurance, Committee on Internal Affairs, Committee on Interstate Cooperation, Committee on Judiciary, Committee on Public Institutions, Health and Human Services, Committee on Public Affairs, Committee on Transportation, Committee on Wildlife and Recreation, and the Committees on Rules and Resolutions, Journal, and Enrolled Bills.

28. Messages shall be sent to the House of Representatives by the Clerk of the Senate.



29. Messages from the Governor or House of Representatives may be received at all times, except when the Senate is engaged in putting the question, in calling the yeas and nays, or in counting the ballots.

30. All questions shall be put by the President, and each member of the Senate shall signify his assent or dissent by answering yea or nay. If the President doubts, or a division is called for, the Senate shall divide. Those in the affirmative on the question shall first rise from their seats and stand until they be counted. The President shall rise and state the decision of the Senate.

31. No person except members of the executive, or members of the House of Representatives and its officers, shall be admitted to the floor of the Senate, except by the invitation of the President, or some member with his consent.

32. The Senate shall adjourn to meet on the subsequent legislative day for the early session at the time mentioned in the adjournment motion. The late session shall immediately follow the early session unless the Senate shall otherwise order.

33. No standing rule of the Senate shall be suspended unless two-thirds of the members present vote in favor thereof. This rule shall not apply to Senate Rule 9.

34. No rule shall be rescinded unless two days notice of the motion has been given and two-thirds of those present vote therefor.

35. The Senate may resolve itself into a Committee of the Whole at any time on motion made for that purpose; and in forming a Committee of the Whole, the President shall leave the chair, and appoint a chairman to preside in committee.

36. The President, when performing the duties of the Chair, may, at any time, name any member to perform the duties of the Chair.

37. The staff of the Senate shall be comprised a clerk, an assistant clerk, a sergeant-at-arms, and a door-keeper who are to be elected by the Senate, and such other personnel as the President shall appoint. The President shall define the duties of all members of the Senate staff which are not fixed by statute or otherwise ordered by the Senate.

38. Each member of the staff of the Senate shall be available on call to carry out the work of the Senate.

39. The committees shall promptly consider and report on all matters referred to them. The President may authorize such committees having a heavy load of investigation, redrafting, research or



amendments to meet as needed on non-legislative days during the legislative session. The Clerk of the Senate shall prepare a list by number, title and sponsor of all Senate bills and resolutions in committee which have not been acted upon within one week before the deadline established for the transfer of bills and resolutions from the Senate to the House of Representatives, and he shall distribute this list to every member of the Senate as soon as it is prepared.

40. Any appeal from the ruling of the presiding officer shall be decided by majority vote of the members present and voting.

41. No new motion shall be admitted under color of amendment as a substitute for the motion under debate.

42. No member shall vote on any question in which he is directly interested; nor shall he be required to vote in any case where he was not present when the question was put; nor sit upon any committee when he is directly interested in the question under consideration. In case of such interest of a member of a committee, the fact shall be reported to the Senate and another person may be substituted on that question in his place.

43. Action on the floor of a report of the Committee on Finance or a Committee of Conference on either the general appropriations (budget) bill or the capital budget bill, shall not be taken by the Senate, until said report has been available from the Senate Clerk twenty-four hours in advance, in written form. Nongermane amendments and footnotes to such bills (except footnotes in explanation of the principal text of such bills or designating the use or restriction of any funds or portions thereof) are prohibited and shall not be allowed under any circumstances.

44. **PERSONAL PRIVILEGE:** A Senator may, as a matter of personal privilege, defend his position on a bill, his integrity, his record, or his conduct, against unfair or unwarranted criticism, or may speak of an issue which relates to his rights, privileges or conveniences as a Senator; provided, however, the matters raised under personal privilege shall not be subject to questioning, answer, or debate, by another Senator. Personal Privilege remarks may be included in the Daily Journal if requested by the Senator, and in the Permanent Journal by vote of the Senate. A Senator may speak on other matters of his choosing and in such cases may be subject to questioning and/or answer according to the Rules of the Senate.

45. No officer or employee of the Senate during the session or any adjournment thereof shall purchase or contract for the purchase, pay or promise to pay any sum of money on behalf of the Senate or issue any requisition or manifest without the approval of the Senate President.

46. If a drafting request for a bill or resolution has been filed with the office of Legislative Services requiring a fiscal note as provided in RSA 14:44-47, the substance or a draft of the proposal may be provided to the legislative budget assistant for preparation of the required fiscal note without the specific consent of the sponsor of the proposal, provided that the identity of the sponsor shall not be disclosed.

### **RESOLUTION**

Senator Delahunty moved, Resolve by this Resolution that the Senate establish a special committee to handle Legislation dealing with redistricting and that the President appoints six members to work on the Legislation during the 1991-1992 session.

Adopted.

### **RESOLUTION**

Senator Delahunty moved, that the Senate be in recess until The Call of The Chair for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings.

Adopted.

Recess.

### **BANKS**

Sen. Leo W. Fraser, Jr. (R) CHRMN  
Sen. Barbara B. Pressly (D) V-CHRMN  
Sen. George F. Disnard (D)  
Sen. Joseph L. Delahunty (R)  
Sen. Susan McLane (R)

### **CAPITAL BUDGET**

Sen. Mary S. Nelson (D) CHRMN  
Sen. C. Jeanne Shaheen (D) V-CHRMN  
Sen. Ralph D. Hough (R) - Liaison to Finance  
Sen. Leo W. Fraser, Jr. (R)  
Sen. Thomas P. Colantuono (R)  
Sen. Otto H. Oleson (D)  
Sen. Sheila Roberge (R)

### **ECONOMIC DEVELOPMENT**

Sen. Edward C. Dupont, Jr. (R) CO-CHRMN  
Sen. Charles F. Bass (R) CO-CHRMN  
Sen. David P. Currier (R)  
Sen. C. Jeanne Shaheen (D)  
Sen. Wayne D. King (D)

Sen. Burton J. Cohen (D)  
Sen. Leo W. Fraser, Jr. (R)

## **EDUCATION**

Sen. George F. Disnard (D) CHRMN  
Sen. Gordon J. Humphrey (R) V-CHRMN  
Sen. John A. King (D)  
Sen. Roger C. Heath (R)  
Sen. Ralph D. Hough (R)

## **ENROLLED BILLS**

Sen. David P. Currier (R) CHRMN  
Sen. Mary S. Nelson (D)  
Sen. Gordon J. Humphrey (R)

## **ENVIRONMENT**

Sen. Wayne D. King (D) CHRMN  
Sen. Richard L. Russman (R) V-CHRMN  
Sen. Leo W. Fraser, Jr. (R)  
Sen. Otto H. Oleson (D)  
Sen. Beverly A. Hollingworth (D)  
Sen. David P. Currier (R)  
Sen. Susan McLane (R)

## **EXECUTIVE DEPARTMENT**

Sen. David P. Currier (R) CHRMN  
Sen. John A. King (D) V-CHRMN  
Sen. Barbara B. Pressly (D)  
Sen. Leo W. Fraser, Jr. (R)  
Sen. Gordon J. Humphrey (R)  
Sen. Thomas P. Colantuono (R)  
Sen. Wayne D. King (D)

## **FACILITIES**

Sen. Edward C. Dupont (R)  
Sen. Joseph L. Delahunty (R)  
Sen. George F. Disnard (D)  
Sen. Clesson J. Blaisdell (D)  
Sen. Ralph D. Hough (R)  
Sen. Joseph L. Delahunty (R)  
Sen. Eleanor P. Podles (R)

## **FINANCE**

Sen. Clesson J. Blaisdell (D) CHRMN  
Sen. Ralph D. Hough (R) V-CHRMN  
Sen. Wayne D. King (D)  
Sen. Sheila Roberge (R)  
Sen. Joseph L. Delahunty (R)



**INSURANCE**

Sen. Joseph L. Delahunty (R) CHRMN  
Sen. Mary S. Nelson (D) V-CHRMN  
Sen. Clesson J. Blaisdell (D)  
Sen. Charles F. Bass (R)  
Sen. Beverly A. Hollingworth (D)  
Sen. Thomas P. Colantuono (R)  
Sen. Richard L. Russman (R)

**INTERNAL AFFAIRS**

Sen. Sheila Roberge (R) CHRMN  
Sen. Joseph L. Delahunty (R) V-CHRMN  
Sen. George F. Disnard (D)  
Sen. Eleanor P. Podles (R)  
Sen. Edward C. Dupont, Jr. (R)  
Sen. James R. St. Jean (D)

**INTERSTATE COOPERATION**

Sen. Burton J. Cohen (D) CHRMN  
Sen. Roger C. Heath (R) V-CHRMN  
Sen. C. Jeanne Shaheen (D)  
Sen. Edward C. Dupont, Jr. (R)  
Sen. Ralph D. Hough (R)

**JOURNAL**

Sen. James R. St. Jean (D) CHRMN  
Sen. Charles F. Bass (R)  
Sen. Richard L. Russman (R)  
Sen. Barbara B. Pressly (D)

**JUDICIARY**

Sen. Eleanor P. Podles (R) CHRMN  
Sen. Beverly A. Hollingworth (D) V-CHRMN  
Sen. Richard L. Russman (R)  
Sen. Mary S. Nelson (D)  
Sen. Thomas P. Colantuono (R)

**PUBLIC AFFAIRS**

Sen. Charles F. Bass (R) CHRMN  
Sen. Wayne D. King (D) V-CHRMN  
Sen. Joseph L. Delahunty (R)  
Sen. Mary S. Nelson (D)  
Sen. Eleanor P. Podles (R)  
Sen. Sheila Roberge (R)  
Sen. Burton J. Cohen (D)

**PUBLIC INSTIT/HEALTH & HUMAN SERVICES**

Sen. John A. King (D) CHRMN  
Sen. Eleanor P. Podles (R) V-CHRMN

Sen. Otto H. Oleson (D)  
Sen. Susan McLane (R)  
Sen. Charles F. Bass (R)

### **REDISTRICTING**

Sen. Roger C. Heath (R) CO. CHRMN  
Sen. James R. St. Jean (D) CO. CHRMN  
Sen. David P. Currier (R)  
Sen. George F. Disnard (D)  
Sen. Sheila Roberge (R)  
Sen. Barbara B. Pressly (D)  
Edward C. Dupont, Jr. (R)  
Sen. C. Jeanne Shaheen (D)

### **RULES**

Sen. Edward C. Dupont, Jr. (R) CHRMN  
Sen. Ralph D. Hough (R) V-CHRMN  
Sen. George F. Disnard (D)  
Sen. Clesson J. Blaisdell (D)  
Sen. Richard L. Russman (R)

### **TRANSPORTATION**

Sen. Otto H. Oleson (D) CHRMN  
Sen. Roger C. Heath (R) V-CHRMN  
Sen. Gordon J. Humphrey (R)  
Sen. Burton J. Cohen (D)  
Sen. David P. Currier (R)  
Sen. Barbara B. Pressly (D)  
Edward C. Dupont, Jr. (R)

### **WAYS AND MEANS**

Sen. Susan McLane (R) CHRMN  
Sen. Thomas P. Colantuono (R) V-CHRMN  
Sen. John A. King (D)  
Sen. Richard L. Russman (R)  
Sen. Clesson J. Blaisdell (D)  
Sen. Beverly A. Hollingworth (D)  
Sen. Gordon J. Humphrey (R)

### **WILDLIFE & RECREATION**

Sen. Roger C. Heath (R) CHRMN  
Sen. Clesson J. Blaisdell (D) V-CHRMN  
Sen. Wayne D. King (D)  
Sen. Charles F. Bass (R)  
Sen. Burton J. Cohen (D)  
Sen. Susan McLane (R)  
Sen. Leo W. Fraser, Jr. (R)

**INTRODUCTION OF SENATE BILLS****RESOLUTION**

Senator Delahunty offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 1 through SCR 1, shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

**FIRST AND SECOND READING AND REFERRAL**

**SB 1**, reapportioning the state senate districts. (Dupont of Dist. 6; Burns of Coos 5 - To Redistricting Committee)

**SB 2**, reapportioning the New Hampshire congressional districts. (Dupont of Dist. 6; Burns of Coos 5 - To Redistricting Committee)

**SB 3-A**, relative to exit 10 on the Spaulding turnpike and making an appropriation therefor. (Dupont of Dist. 6; Frechette of Strafford Dist. 8 - To Capital Budget)

**SB 4-FN-A**, relative to the port of New Hampshire Port Authority and making an appropriation therefor. (Dupont of Dist. 6; Cohen of Dist. 24; W. King of Dist. 2; Shaheen of Dist. 21 - To Economic Development)

**SB 5-FN**, relative to Skyhaven airport. (Dupont of Dist. 6; Frechette of Strafford Dist. 8 - To Transportation)

**SB 6-FN**, relative to the Pease development authority. (Dupont of Dist. 6; Cohen of Dist. 24 - To Executive Departments)

**SB 7-FN-A**, relative to an industrial research center at the University of New Hampshire. (Dupont of Dist. 6; Shaheen of Dist. 21; W. King of Dist. 2; Foss of Strafford Dist. 10 - To Economic Development)

**SB 11-A**, appropriating funds for a new courthouse in Rockingham county. (Hollingworth of Dist. 23; Cohen of Dist. 24; J. King of Dist. 18; W. McCain of Rockingham Dist. 11; Caswell of Rockingham Dist. 12; McGovern of Rockingham Dist. 27 - To Capital Budget)

**SB 12-FN-A**, relative to school building aid and making an appropriation therefor. (Hough of Dist. 5; Blaisdell of Dist. 10 - To Finance)



**SB 13**, relative to transferring funds between and among line items in the postsecondary technical education department. (Blaisdell of Dist. 10; Hough of Dist. 5 - To Finance)

**SB 14-A**, relative to environmental and engineering studies and acquisition of rights-of-way for the construction of a truck lane on United States Route 2 in Jefferson, New Hampshire, and making an appropriation therefor. (Oleson of Dist. 1; Kilbride of Coos Dist. 8; Nelson of Coos Dist. 8 - To Transportation)

**SB 15**, relative to special identification of legislation that amends existing revenue statutes which send all or part of certain revenues to subdivisions of the state. (J. King of Dist. 18; Oleson of Dist. 1; Goulet of Hillsborough Dist. 11; Emerton of Hillsborough Dist. 6 - To Ways and Means)

**SB 16-FN**, relative to the board of dental examiners. (Blaisdell of Dist. 10; Hough of Dist. 5 - To Executive Departments)

**SB 17**, relative to disclosure of transaction charges for use of automated teller machines. (Roberge of Dist. 9; Grodin of Cheshire 6; Upton of Hillsborough Dist. 11; Goulet of Hillsborough Dist. 11; Bowers of Hillsborough Dist. 11; D. Kelley of Hillsborough Dist. 11 - To Banks)

**SB 18-FN-A**, relative to the conservation corps program and making an appropriation therefor. (McLane of Dist. 15; Disnard of Dist. 8; Chambers of Grafton 12; Millard of Merrimack Dist. 4; Gilmore of Strafford Dist. 7; Dickinson of Carroll Dist. 2; Lewis of Merrimack Dist. 5 - To Wildlife and Recreation)

**SB 19-FN**, establishing penalties and fines for use of blue lights by any person other than a certified police officer. (Nelson of Dist. 13; Heath of Dist. 3; J. King of Dist. 18; Record of Hillsborough Dist. 23 - To Executive Departments)

**SB 20-FN**, relative to licensing nutritionists and dietitians. (Currier of Dist. 7; McLane of Dist. 15; Fillion of Merr. 15; Terninko of Rockingham Dist. 2 - To Executive Departments)

**SB 21**, establishing a commission to study and recommend the elimination of state-mandated programs. (Heath of Dist. 3; Colantuono of Dist. 14 - To Executive Departments)

**SB 22**, relative to changes in reimbursement requirements for psychologists. (Nelson of Dist. 13 - To Insurance)

**SB 23-FN**, relative to juvenile delinquents on conditional release. (Roberge of Dist. 9; Disnard of Dist. 8; W. McCain of Rockingham Dist. 11; Rodeschin of Sullivan Dist. 2 - To Judiciary)

**SB 24**, relative to revising the administrative procedure act. (Bass of Dist. 11 - To Executive Departments)

**SB 25-FN**, relative to obtaining out-of-state driving records. (Currier of Dist. 7; Heath of Dist. 3 - To Transportation)

**SB 26-FN**, relative to licenses to carry firearms. (Hollingworth of Dist. 23 - To Judiciary)

**SB 27-FN**, establishing minimum mandatory sentences of imprisonment for assault crimes where the victim is a law enforcement officer. (Nelson of Dist. 13; Heath of Dist. 3 - To Judiciary)

**SB 28-FN**, relative to promoting New Hampshire businesses and products internationally. (W. King of Dist. 2; Cohen of Dist. 24; Dupont of Dist. 6; Shaheen of Dist. 21; W. McCain of Rockingham Dist. 11; Arnesen of Grafton Dist. 7 - To Economic Development)

**SB 29-FN-A**, establishing a legislative ethics committee and making an appropriation therefor. (Bass of Dist. 11; Disnard of Dist. 8; Hollingworth of Dist. 23; Martling of Strafford Dist. 4 - To Public Affairs)

**SB 30-FN**, relative to insurance coverage for and unfair claim settlement practices concerning chiropractic treatment. (Colantuono of Dist. 14; Nelson of Dist. 13; Heath of Dist. 3; J. King of Dist. 18; W. McCain of Rockingham Dist. 11; Copenhaver of Grafton Dist. 12; Soldati of Merrimack Dist. 19 - To Insurance)

**SB 31-FN-A**, recodifying the laws relative to real estate brokers and salespersons and making an appropriation therefor. (St. Jean of Dist. 20 - To Executive Departments)

**SB 32-FN**, requiring certain motorists to post a credit card deposit for traffic violations. (Bass of Dist. 11 - To Transportation)

**SB 33-FN**, relative to establishing a nonlapsing account for the New Hampshire technical institute and vocational technical colleges and creating the position of director of financial management. (Dupont of Dist. 6 - To Education)

**SB 34-FN**, requiring parental notification before abortions may be performed on unemancipated minors. (Humphrey of Dist. 17 - To Judiciary)

**SB 35-FN**, requiring the legislative budget assistant to identify and make available for inspection a list of certain state-mandated programs. (Humphrey of Dist. 17 - To Executive Departments)

**SB 36-FN-A**, relative to special education and making an appropriation therefor. (Hough of Dist. 5 - To Education)

**SB 37**, relative to amending provisions of the voluntary corporation statute. (Dupont of Dist. 6 - To Judiciary)

**SB 38-FN-A**, exempting interest earned by investors in certain mutual funds from the interest and dividend tax. (Currier of Dist. 7 - To Banks)

**SB 39-FN**, relative to reopening liquor stores. (W. King of Dist. 2; Pressly of Dist. 12 - To Ways and Means)

**SB 40**, making the pink lady slipper the state wild flower. (McLane of Dist. 15; E. Greene of Rockingham Dist. 18; Parks of Strafford Dist. 6; Lewis of Merrimack Dist. 5; M. Campbell of Rockingham Dist. 20; McIlwaine of Grafton Dist. 3 - To Environment)

**SB 41-A**, relative to the construction of a fire training academy for New Hampshire fire fighters and making an appropriation therefor. (Fraser of Dist. 4; Cohen of Dist. 24; Hawkins of Belknap Dist. 4 - To Capital Budget)

**SB 42-FN**, relative to the board of podiatry. (Blaisdell of Dist. 10 - To Executive Departments)

**SB 43-FN**, establishing a committee to study utilization review and managed care. (Blaisdell of Dist. 10 - To Public Institutions, Health and Human Services)

**SB 44**, permitting municipalities to acquire running liens on property of property owners owing back taxes. (Heath of Dist. 3 - To Public Affairs)

**SB 45-FN**, relative to bail jumping. (Heath of Dist. 3; R. Daly of Carroll Dist. 3; G. Katsakiores of Rockingham Dist. 7 - To Judiciary)

**SB 46**, relative to placing political signs along state highways. (Heath of Dist. 3 - To Executive Departments)

**SB 47**, relative to emergency response personnel. (St. Jean of Dist. 20 - To Public Affairs)

**SB 48-FN**, requiring a temporary tenure for new departments, agencies or divisions. (J. King of Dist. 18 - To Executive Departments)



**SB 49**, relative to electing alternate zoning board of adjustment members. (W. King of Dist. 2 - To Public Affairs)

**SB 50**, relative to removal of motor vehicle registrations. (Roberge of Dist. 9; Spencer of Strafford Dist. 4 - To Judiciary)

**SB 51**, relative to motor vehicle license revocation. (Roberge of Dist. 9; Jasper of Hillsborough Dist. 19 - To Transportation)

**SB 52**, changing the name of the Federal Home Loan Bank Board to the Office of Thrift Supervision. (Fraser of Dist. 4 - To Banks)

**SB 53-FN**, relative to nonresidential and nonrural zoning. (Colantuono of Dist. 14 - To Executive Departments)

**SB 54-A**, relative to replacing the Plymouth Bridge on New Hampshire Route 175A in Plymouth and making an appropriation therefor. (W. King of Dist. 2 - To Transportation)

**SB 55-A**, relative to replacing the Warren Bridge on New Hampshire Route 25 and making an appropriation therefor. (W. King of Dist. 2; LaMott of Grafton Dist. 5; Teschner of Grafton Dist. 5 - To Transportation)

**SB 56-FN**, relative to sunset laws. (W. King of Dist. 2; Cohen of Dist. 24; Arnesen of Grafton Dist. 7 - To Executive Departments)

**SB 57-FN**, relative to the review of New Hampshire corporate laws. (W. King of Dist. 2; Cohen of Dist. 24; Heath of Dist. 3; Shaheen of Dist. 21; Arnesen of Grafton Dist. 7 - To Economic Development)

**SB 58**, relative to licenses for games of chance. (Nelson of Dist. 13; G. Gagnon of Hillsborough Dist. 29 - To Ways and Means)

**SB 59-FN**, relative to a state-sponsored credit card program. (W. King of Dist. 2; Disnard of Dist. 8 - To Banks)

**SB 60-A**, relative to the Laconia - I-93 connector highway and making an appropriation therefor. (Fraser of Dist. 4; Rosen of Belknap Dist. 9; Turner of Belknap Dist. 11 - To Capital Budget)

**SB 61-FN**, relative to speedy payments for the care of children in foster homes. (W. King of Dist. 2; Disnard of Dist. 8 - To Public Institutions, Health and Human Services)

**SB 62-FN**, relative to licensure of athletic trainers. (Currier of Dist. 7 - To Executive Departments)

**SB 63-FN**, relative to the definition of ski craft. (McLane of Dist. 15 - To Wildlife and Recreation)

**SB 64-A**, relative to the superior courthouse in Nashua and making an appropriation therefor. (Nelson of Dist. 13; Heath of Dist. 3; Colantuono of Dist. 14; J. King of Dist. 18; Pressly of Dist. 12; Podles of Dist. 16; Mercer of Hillsborough Dist. 23; N. Ford of Hillsborough Dist. 24; Cote of Hillsborough Dist. 25; D. Pignatilli Hillsborough Dist 31; S. Kuchinski of Hillsborough Dist. 28 - To Capital Budget)

**SB 65-FN-A**, relative to Lake Massasecum and the Warner River in the town of Bradford and making an appropriation therefor. (Currier of Dist. 7 - To Environment)

**SB 66**, relative to durable power of attorney for health care. (McLane of Dist. 15; Hollingworth of Dist. 23; Bass of Dist. 11; Fair of Merrimack Dist. 7; K. Wheeler of Strafford Dist. 4; K. Foster of Cheshire Dist. 17 - To Public Institutions, Health and Human Services)

**SB 67-FN**, relative to establishing a study committee to study the feasibility of revising the school building aid formula. (Hough of Dist. 5 - To Education)

**SB 68-FN**, relative to the transportation of animals in open trucks. (Roberge of Dist. 9; Hollingworth of Dist. 23; L. Smith of Hillsborough Dist. 21; Skinner of Rockingham Dist. 21; Goulet of Hillsborough Dist. 11; Conroy of Rockingham Dist. 7; Baldizar of Hillsborough Dist. 22 - To Transportation)

**SB 69-FN**, relative to certification of professional counselors. (W. King of Dist. 2; King of Hillsborough Dist. 43 - To Executive Departments)

**SB 70-FN**, relative to superior court clerks for Hillsborough county. (Nelson of Dist. 13; Heath of Dist. 3; Podles of Dist. 16; St. Jean of Dist. 20; Pressly of Dist. 12; N. Ford of Hillsborough Dist. 24 - To Internal Affairs)

**SB 71-FN-A**, relative to superior court justices and making an appropriation therefor. (Nelson of Dist. 13; J. King of Dist. 18; Hollingworth Dist. 23; Pressly of Dist. 12; Record of Hillsborough Dist. 23; Martin of Hillsborough Dist. 26 - To Internal Affairs)

**SB 72-FN-A**, relative to certain vaccines for children and making an appropriation therefor. (Hollingworth of Dist. 23; Shaheen of Dist. 21; Cohen of Dist. 24; McGovern of Rockingham Dist. 27; Burling of Sullivan Dist. 1 - To Public Institutions, Health and Human Services)

**SB 73-FN**, relative to motor vehicle plates and registrations. (Heath of Dist. 3; Currier of Dist. 7; Katsakiores of Rockingham Dist. 7 - To Transportation)

**SB 74-FN**, relative to catastrophic illness care costs. (Nelson of Dist. 13; Skinner of Rockingham Dist. 21; Copenhaver of Grafton Dist. 12 - To Public Institutions, Health and Human Services)

**SB 75**, relative to bargaining rights for state employees. (Currier of Dist. 7; J. King of Dist. 18; Laughlin of Hillsborough Dist. 38 - To Executive Departments)

**SB 76**, relative to the age requirement for retirement communities. (Pressly of Dist. 12; Wright of Hillsborough Dist. 18; Record of Hillsborough Dist. 23 - To Public Affairs)

**SB 77-FN**, creating a presumption that cardiovascular disease and certain cancers in police officers are occupationally related. (St. Jean of Dist. 20 - To Insurance)

**SB 78-FN**, relative to loans to municipalities from state revolving loan funds. (St. Jean of Dist. 20; Domaingue of Hillsborough Dist. 42 - To Banks)

**SB 79-FN**, establishing a committee to study an expedited permit process for environmental permits. (W. King of Dist. 2; Disnard of Dist. 8; Fraser of Dist. 4; Shaheen of Dist. 21; Teschner of Grafton Dist. 5; Foss of Strafford Dist. 10 - To Economic Development)

**SB 80-FN**, relative to sunset review of the industrial development authority. (Cohen of Dist. 24; W. King of Dist. 2; Arnesen of Grafton Dist. 7 - To Economic Development)

**SB 81**, relative to damages for wrongful death. (Hollingworth of Dist. 23; J. King of Dist. 18; Lozeau of Hillsborough Dist. 25; Burling of Sullivan Dist. 1 - To Judiciary)

**SB 82**, relative to powers of directors, officers, and trustees of health service corporations. (Roberge of Dist. 9 - To Judiciary)

**SB 83**, relative to the investment of public funds. (Delahunty of Dist. 22; Fraser of Dist. 4; Foss of Strafford Dist. 10; Krueger of Sullivan Dist. 6 - To Banks)

**SB 84-FN**, establishing a committee to review the architects' proposals, site location, and costs of a new Rockingham county superior court building. (Hollingworth of Dist. 23; J. King of Dist. 18; Cohen of Dist. 24; Caswell of Rockingham Dist. 12; W. McCain of Rockingham Dist. 11 - To Capital Budget)



**SB 85-FN**, relative to women's sports. (Hollingworth of Dist. 23; McGovern of Rockingham of Dist. 27 - To Public Affairs)

**SB 86-FN**, to create low salt districts within the state highway system. (Pressly of Dist. 12; Nelson of Dist. 13; Roberge of Dist. 9; Baldizar of Hillsborough Dist. 22 - To Transportation)

**SB 87-FN**, relative to replacement employees. (Pressly of Dist. 12; Lefebvre of Hillsborough Dist. 29 - To Insurance)

**SB 88**, permitting independent voters to vote in a primary and change their registration back to independent on the same day of the primary. (Pressly of Dist. 12; Nelson of Dist. 13; J. King of Dist. 18; Record of Hillsborough Dist. 23 - To Public Affairs)

**SB 89**, relative to cooperative school district planning committees. (Oleson of Dist. 1 - To Education)

**SB 90-FN**, relative to the Salmon Falls Road in the cities of Somersworth and Rochester. (Dupont of Dist. 6; Frechette of Strafford Dist. 8 - To Transportation)

**SB 91**, relative to the disclosure of discoverable materials in product liability actions. (Cohen of Dist. 24; S. Green of Hillsborough Dist. 36 - To Judiciary)

**SB 92**, relative to collateral on personal guarantees of business loans. (Podles of Dist. 16; Emerton of Hillsborough Dist. 6 - To Banks)

**SB 93**, relative to arraignments of juvenile delinquents. (Roberge of Dist. 9; W. McCain of Rockingham Dist. 11 - To Judiciary)

**SB 94**, relative to confidentiality in child abuse and neglect cases. (Podles of Dist. 16 - To Judiciary)

**SB 95-FN**, relative to parole of delinquents. (Roberge of Dist. 9; Rep. W. McCain of Rockingham Dist. 11 - To Judiciary)

**SB 96**, relative to adoption. (Podles of Dist. 16 - To Judiciary)

**SB 97**, relative to administrative rules and state mandates. (Currier of Dist. 7 - To Executive Departments)

**SB 98-FN**, relative to a review of RSA 53-B, regional refuse disposal districts. (W. King of Dist. 2 - To Environment)

**SB 99-FN**, establishing a committee to study how the state of New Hampshire operates and finances public education. (McLane of Dist. 15 - To Education)

**SB 100-FN**, relative to simulcast wagering. (Blaisdell of Dist. 10 - To Ways and Means)

**SB 101-FN**, establishing a study committee relative to the industrial development authority. (Dupont of Dist. 6 - To Economic Development)

**SB 102-FN**, authorizing the municipal bond bank to establish and administer combined investment funds. (Currier of Dist. 7; Nelson of Dist. 13; Fair of Merrimack Dist. 7; B. Packard of Hillsborough Dist. 15 - To Banks)

**SB 103-FN**, relative to parental choice in education. (Humphrey of Dist. 17 - To Education)

**SB 104**, relative to appeal of adoption decrees. (Podles of Dist. 16 - To Judiciary)

**SB 105-FN**, relative to scam telephone sales calls. (Pressly of Dist. 12; Wright of Hillsborough Dist. 18 - To Judiciary)

**SB 106-FN**, relative to anatomical gifts. (Pressly of Dist. 12; Heath of Dist. 3; Nelson of Dist. 13; Record of Hillsborough Dist. 23 - To Transportation)

**SB 107**, relative to tenants' security deposit. (Pressly of Dist. 12; Wright of Hillsborough Dist. 18 - To Public Affairs)

**SB 108-FN**, relative to the definition of bulk power supply facilities. (Colantuono of Dist. 14; Cohen of Dist. 24 - To Public Affairs)

**SB 109-FN**, relative to the date for the collection of taxes in the town of Newmarket. (Hollingworth of Dist. 23; Caswell of Rockingham Dist. 12; Schanda of Rockingham Dist. 12 - To Public Affairs)

**SB 110-FN**, relative to protection of first amendment rights of students. (Cohen of Dist. 24 - To Education)

**SB 111-FN**, establishing an advisory committee on economic development. (W. King of Dist. 2; Disnard of Dist. 8; Cohen of Dist. 24; Arnesen of Grafton Dist. 7 - To Economic Development)

**SB 112-FN**, relative to license plates for firefighters. (Currier of Dist. 7; Elliot of Hillsborough Dist. 2 - To Transportation)

**SB 113-FN**, relative to justification of the use of physical force as a defense in actions alleging the abuse or neglect of a child. (Podles of Dist. 16 - To Judiciary)

**SB 114-FN**, requiring a report on certain water laws. (Bass of Dist. 11 - To Environment)

**SB 115-FN**, relative to livestock. (Dupont of Dist. 6 - To Public Affairs)

**SB 116-FN**, requiring installers of water treatment equipment to be licensed as pump installers. (Currier of Dist. 7 - To Executive Departments)

**SB 117-FN-A**, relative to expenditures by the public works bureau, extending certain lapse dates, making adjustments to certain bond authorizations, altering the effective dates of certain fee increases, making certain appropriations, and relative to reassessments of property, class AA dams, and the port authority, and making an appropriation therefor. (Blaisdell of Dist. 10; Hough of Dist. 5; Dupont of Dist. 6; Nelson of Dist. 13 - To Capital Budget)

**SB 118-FN**, relative to the department of revenue administration. (Currier of Dist. 7 - To Ways and Means)

**SB 119-FN**, relative to the business profits tax, the real estate transfer tax, and the communications services tax. (Blaisdell of Dist. 10; Hough of Dist. 5 - To Ways and Means)

**SB 120-FN-A**, establishing a sunset committee and restoring the sunset review process and making an appropriation therefor. (J. King of Dist. 18 - To Executive Departments)

**SB 121-FN**, relative to operating a motor vehicle under the influence of drugs. (Roberge of Dist. 9; Jasper of Hillsborough Dist. 19; Spencer of Strafford Dist. 4; Hashem of Strafford Dist. 3 - To Transportation)

**SB 122-FN**, exempting towns from the solid waste facility application fee. (W. King of Dist. 2; R. Hill of Grafton Dist. 1; Rep. Whitcomb of Grafton Dist. 1 - To Environment)

**SB 123-FN**, relative to the wine industry of New Hampshire. (Currier of Dist. 7 - To Ways and Means)

**SB 124-FN**, to reinstate the state committee for mosquito control. (Cohen of Dist. 24 - To Environment)

**SB 125-FN**, relative to child abuse and neglect proceedings. (Podles of Dist. 16 - To Public Institutions, Health and Human Services)

**SB 126-FN**, relative to groundwater classification. (Russman of Dist. 19; Conroy of Rockingham Dist. 7 - To Environment)



**SB 127-FN**, relative to removing vegetation obstructing advertising devices and planting lilac bushes. (Heath of Dist. 3; J. King of Dist. 18; Oleson of Dist. 1; Fraser of Dist. 4 - To Transportation)

**SB 128-FN-A**, relative to the development of an electronic benefit transfer system and making an appropriation therefor. (Dupont of Dist. 6 - To Public Institutions, Health and Human Services)

**SB 129-FN**, requiring that all cigarettes be tax-stamped within the state and establishing a study committee on sale and distribution of cigarettes. (Heath of Dist. 3 - To Ways and Means)

**SB 130**, relative to certain real property received from drug forfeitures to the state. (Heath of Dist. 3 - To Wildlife and Recreation)

**SB 131-FN**, relative to choice in education. (Heath of Dist. 3 - To Education)

**SB 132-FN**, relative to monitoring licensed nuclear power plants. (Hollingworth of Dist. 23; J. King of Dist. 18; Cohen of Dist. 24; McGovern of Rockingham Dist. 27; A. Merrill of Strafford Dist. 4 - To Public Affairs)

**SB 133**, relative to resellers of telecommunication services. (Cohen of Dist. 24; Dupont of Dist. 6 - To Executive Departments)

**SB 134-FN**, relative to a public recreation revolving fund. ( W. King of Dist. 2; Disnard of Dist. 8; Nielsen of Grafton Dist. 8 - To Wildlife and Recreation)

**SB 135-FN**, relative to recovering costs, fees, and expenses in certain takeovers of utilities. (Russman of Dist. 19; St. Jean of Dist. 20; Hollingworth of Dist. 23; Chambers of Grafton Dist. 12; M. Hill of Merrimack Dist. 14 - To Executive Departments)

**SB 136-FN**, authorizing water users registered and reporting their use to the division of water resources, department of environmental services, to continue such use. (Currier of Dist. 7 - To Environment)

**SB 137-FN**, relative to the Pease development authority. (Shaheen of Dist. 21; Hollingworth of Dist. 23; Heath of Dist. 3; W. McCann of Strafford Dist. 7; McGovern of Rockingham Dist. 27; A. Merrill of Strafford Dist. 4; Arnesen of Grafton Dist. 7 - To Executive Departments)

**SB 138-FN**, relative to defining the term "responsible bidder" for the purpose of certain capital projects. (Shaheen of Dist. 21; St. Jean of Dist. 20; J. King of Dist. 18; W. McCann of Strafford Dist. 7 - To Capital Budget)

**SB 139-FN**, relative to preventing damage to aboveground utility installations. (Currier of Dist. 7 - To Executive Departments)

**SB 140-FN**, relative to rate setting by the division for children and youth services and by the department of education. (Blaisdell of Dist. 10 - To Public Institutions, Health and Human Services)

**SB 141-FN**, to extend medical benefits to group II members on disability retirement who become group II members after June 30, 1988. (Nelson of Dist. 13 - To Insurance)

**SB 142-FN**, relative to temporary utility rate increases. (Colantuono of Dist. 14 - To Executive Departments)

**SB 143**, extending time limits for condominium projects. (J. King of Dist. 18 - To Public Affairs)

**SB 144-FN-A**, relative to the Women's War Memorial and making an appropriation therefor. (Oleson of Dist. 1 - To Public Affairs)

**SB 145-FN-A**, establishing a New Hampshire small business mini-loan program and making an appropriation therefor. (W. King of Dist. 2; Hollingworth of Dist. 23; Chambers of Graf. 12; Teschner of Grafton Dist. 5; Arnesen of Grafton Dist. 7 - To Economic Development)

**SB 146**, relative to equipment and instruction programs and revolving funds for regional vocational centers. (Dupont of Dist. 6; Shaheen of Dist. 21 - To Education; Arnold Hillsborough Dist. 33)

**SB 147-FN**, relative to foundation aid levels. (Nelson of Dist. 13; Podles of Dist. 16; J. King of Dist. 18; Pressly of Dist. 12; Baldizar of Hillsborough Dist. 22; B. McCann of Hillsborough Dist. 31 - To Education)

**SB 148-FN**, providing a 5 percent cost of living adjustment for group I retirement system members and providing a 10 percent cost of living adjustment for teachers retired prior to July 1, 1957. (Blaisdell of Dist. 10; McLane of Dist. 15; Hough of Dist. 5 - To Insurance)

**SB 149-FN-A**, relative to reimbursing a certain school cooperative for certain expenses and making an appropriation therefor. (Pressly of Dist. 12; G. Hanselman Hillsborough Dist 17 - To Finance)

**SB 150**, relative to partnerships and relative to foreclosures. (St. Jean of Dist. 20 - To Banks)

**SB 151-FN**, to protect municipalities against liability in the construction and maintenance of highways, streets and sidewalks. (Fraser of Dist. 4 - To Transportation)

**SB 152**, relative to a joint New Hampshire-Quebec trade council. (W. King of Dist. 2; Disnard of Dist. 8; Oleson of Dist. 1; Heath of Dist. 3; Nelson of Coos 8; R. Hill of Grafton Dist. 1; LaMott of Grafton Dist. 5; Kilbride of Coos 8 - To Economic Development)

**SB 153**, relative to licensing of pharmacists. (Hollingworth of Dist. 23; J. King of Dist. 18; McGovern of Rockingham Dist. 27; Parr of Rockingham Dist. 17 - To Executive Departments)

**SB 154-FN**, relative to the jurisdiction of state police employees. (Podles of Dist. 16; Jasper of Hillsborough Dist. 19; Spencer of Strafford Dist. 4; LaMott of Grafton Dist. 5; Emerton of Hillsborough Dist. 6 - To Transportation)

**SB 155**, relative to mechanics' liens. (Roberge of Dist. 9; Sen. Heath of Dist. 3 - To Banks)

**SB 156-FN-A**, establishing a committee to study the SAU structure within the state of New Hampshire and making an appropriation therefor. (Disnard of Dist. 8; Hollingworth of Dist. 23; Rodeschin of Sullivan Dist. 2; R. Hawkins of Belknap Dist. 5; Skinner of Rockingham Dist. 21 - To Education)

**SB 157-FN**, relative to bingo and lucky 7. (Disnard of Dist. 8; W. King of Dist. 2; Nelson of Dist. 13; Hough of Dist. 5; Spear of Cheshire Dist. 13; Lamott of Grafton Dist. 5 - To Ways and Means)

**SB 158**, relative to advanced registered nurse practitioners. (W. King of Dist. 2; Heath of Dist. 3; Shaheen of Dist. 21; Nelson of Dist. 13; Hough of Dist. 5; Copenhagen of Grafton Dist. 12; Torr of Strafford Dist. 6 - To Executive Departments)

**SB 159-FN**, relative to posting of public documents in licensed health facilities. (Podles of Dist. 16; O'Rourke of Hillsborough Dist. 35 - To Public Institutions, Health and Human Services)

**SB 160**, granting condominium associations a 6-month assessment lien priority over first mortgage or deed of trust liens. (Pressly of Dist. 12 - To Banks)

**SB 161**, relative to meetings of community associations. (Pressly of Dist. 12 - To Public Affairs)

**SB 162-A**, relative to rebuilding, modernizing, and maintaining the Conway branch line and making an appropriation therefor. (Dupont of Dist. 6 - To Transportation)

**SB 163**, relative to the owners of manufactured housing parks. (Pressly of Dist. 12; Wright of Hillsborough Dist. 18 - To Executive Departments)



**SB 164**, relative to maintaining the current subsidized multi-family rental housing stock in New Hampshire. (Pressly of Dist. 12; Champagne of Cheshire Dist. 17; Depecol of Cheshire Dist. 12; Kingsbury of Cheshire Dist. 14; Spear of Cheshire Dist. 13 - To Public Affairs)

**SB 165-FN**, relative to permit fees for excavating and dredging permits. (Dupont of Dist. 6; Roberge of Dist. 9 - To Environment)

**SB 166-FN**, permitting towns and cities to recover costs of investigations and prosecutions. (Delahunty of Dist. 22; A. Smith of Rockingham Dist. 20; Senter of Rockingham Dist. 9 - To Judiciary)

**SB 167-FN**, establishing a committee to reevaluate the sequencing of the central turnpike projects in the city of Nashua and to examine the changing traffic conditions in the Nashua area. (Pressly of Dist. 12; Nelson of Dist. 13 - To Transportation)

**SB 168-FN**, relative to future statewide toll increases. (Shaheen of Dist. 21; Hollingworth of Dist. 23; J. King of Dist. 18; Cohen of Dist. 24; W. McCann of Strafford Dist. 7; Keans of Strafford Dist. 11; A. Merrill of Strafford Dist. 4 - To Transportation)

**SB 169**, prohibiting steel leg traps. (Podles of Dist. 16; Hollingworth of Dist. 23; Cohen of Dist. 24; Roberge of Dist. 9; K. Wheeler of Strafford Dist. 4; Anderson of Merrimack Dist. 7; Tetu of Sullivan Dist. 8; Barnes of Rockingham Dist. 6 - To Wildlife and Recreation)

**SB 170-FN-A**, to study the revenue structure in New Hampshire and making an appropriation therefor. (McLane of Dist. 15; Hollingworth of Dist. 23; Disnard of Dist. 8; Sytek of Rockingham Dist. 20; Gross of Merrimack Dist. 16; Kurk of Hillsborough Dist. 3 - To Ways and Means)

**SB 171-FN**, prohibiting discrimination on the basis of smoking. (Currier of Dist. 7; Heath of Dist. 3; W. King of Dist. 2; Rep. Gross of Merrimack Dist. 16; Chambers of Grafton Dist. 12 - To Public Institutions, Health and Human Services)

**SB 172-FN-A**, relative to enhanced family care facilities and making an appropriation therefor. (Blaisdell of Dist. 10; Nelson of Dist. 13; Cohen of Dist. 24; Pressly of Dist. 12; Senter of Rockingham Dist. 9; S. Green of Hillsborough Dist. 36 - To Public Institutions, Health and Human Services)

**SB 173-FN-A**, relative to senior "meals on wheels" and senior transportation and making an appropriation therefor. (Disnard of Dist. 8; Nelson of Dist. 13; Oleson of Dist. 1; Cohen of Dist. 24; Salatiello of Belknap Dist. 3; S. Green of Hillsborough Dist. 36 - To Public Institutions, Health and Human Services)

**SB 174-FN**, relative to possessing and dispensing prescription drugs by nonprofit family planning agencies. (McLane of Dist. 15; W. King of Dist. 2; K. Wheeler of Strafford Dist. 4; McIlwaine of Grafton Dist. 3; Ziegra of Belknap Dist. 6 - To Public Institutions, Health and Human Services)

**SB 175-FN**, relative to foundation aid and making an appropriation therefor. (Disnard of Dist. 8; St. Jean of Dist. 20; W. King of Dist. 2; Shaheen of Dist. 21 - To Education)

**SB 176-FN**, relative to ophthalmic dispensing. (Currier of Dist. 7; Oleson of Dist. 1; Hollingworth of Dist. 23; Shaheen of Dist. 21; Salatiello of Belknap Dist. 3; K. Wheeler of Strafford Dist. 4 - To Executive Departments)

**SB 177-FN-A**, relative to enhancing prenatal care and making an appropriation therefor. (Hollingworth of Dist. 23; Cohen of Dist. 24; Shaheen of Dist. 21; Burling of Sullivan Dist. 1; McGovern of Rockingham 27 - To Public Institutions, Health and Human Services)

**SB 178**, transferring certain account balances to the joint legislative account. (Dupont of Dist. 6; Disnard of Dist. 8; Burns of Coos 5; Chambers of Grafton Dist. 12 - To Internal Affairs)

**SB 179-FN**, allowing real estate firms or brokers to establish interest-bearing trust accounts. (W. King of Dist. 2 - To Banks)

**SB 180-FN**, relative to the time within which the board of tax and land appeals must hear appeals. (W. King of Dist. 2; Hollingworth of Dist. 23; Driscoll of Grafton Dist. 8 - To Internal Affairs)

**SB 181-FN**, relative to the number of winner take all bingo games allowed on one game date. (Nelson of Dist. 13; Hough of Dist. 5; Disnard of Dist. 8; Spear of Cheshire Dist. 13 - To Ways and Means)

**SB 182-FN**, relative to the division of information services. (Dupont of Dist. 6 - To Internal Affairs)

**SB 183-FN**, relative to the Lamprey Regional Solid Waste Cooperative. (Dupont of Dist. 6 - To Environment)

**SB 184-FN**, relative to voter registration. (Cohen of Dist. 24 - To Public Affairs)

**SB 185-FN**, relative to caterers and other banquet facilities. (Roberge of Dist. 9; Reedy of Hillsborough Dist. 45; D. Kelley of Hillsborough Dist. 11; Goulet of Hillsborough Dist. 11; Emerton of Hillsborough Dist. 6; I. Messier of Hillsborough Dist. 45; D. Bowers Hillsborough Dist. 11 - To Ways and Means;)

**SB 186-FN**, relative to a hazardous waste day in Rockingham county. (Hollingworth of Dist. 23; Cohen of Dist. 24 - To Environment)

**SB 187-FN**, relative to establishing water rights for a portion of the Bellamy River for the city of Dover. (Shaheen of Dist. 21; W. McCann of Strafford Dist. 7; Corte of Strafford Dist. 6; Torr of Strafford Dist. 6; Kinney of Strafford Dist. 6 - To Environment)

**SB 188**, relative to the living will statute. (McLane of Dist. 15; Bass of Dist. 1 - To Judiciary)

**SB 189-FN**, allowing raffles and games of chance to be conducted at the same place as a bingo game. (Nelson of Dist. 13; Hough of Dist. 5; Disnard of Dist. 8 - To Ways and Means)

**SB 190-FN**, relative to insurance coverage for infertility. (McLane of Dist. 15; St. Jean of Dist. 20; Shaheen of Dist. 21 - To Insurance)

**SB 191-FN**, relative to fines and to loss of driver's license and plates for court defaults. (Heath of Dist. 3; Currier of Dist. 7; Katsakiores of Rockingham Dist. 7 - To Transportation)

**SB 192-FN-A**, relative to the office of chief medical examiner and making an appropriation therefor. (Nelson of Dist. 13; Hollingworth of Dist. 23 - To Internal Affairs)

**SB 193-FN**, relative to limits on motorboat speeds. (McLane of Dist. 15 - To Wildlife and Recreation)

**SB 194**, relative to disclosure statements for lobbyists. (Bass of Dist. 11; Hoar of Rockingham Dist. 6 - To Executive Departments)

**SB 195-FN**, relative to campaign expenditure limitations. (Bass of Dist. 11 - To Public Affairs)

**SB 196-FN**, relative to administrative revocation of motor vehicle licenses of persons under age 21. (Currier of Dist. 7 - To Transportation)

**SB 197-FN**, relative to code compliance for health care facilities. (Podles of Dist. 16; O'Rourke of Hillsborough Dist. 35 - To Public Institutions, Health and Human Services)

**SB 198-FN**, relative to de novo hearings in certain cases involving minors. (Podles of Dist. 16 - To Judiciary)

**SB 199-FN**, relative to abused and neglected children. (Podles of Dist. 16 - To Public Institutions, Health and Human Services)



**SB 200-FN**, relative to persons eligible to file requests for property tax abatements. (Delahunty of Dist. 22 - To Internal Affairs)

**SB 201**, allowing each city and town to vote to establish its own tax rate. (Pressly of Dist. 12; J. King of Dist. 18; Hayes of Merrimack Dist. 21; Martin of Hillsborough Dist. 26 - To Ways and Means)

**SB 202-FN**, relative to due process in the liquor commission's proceedings. (Russman of Dist. 19 - To Ways and Means)

**SB 203-FN**, relative to the budget of the university system. (St. Jean of Dist. 20 - To Finance)

**SB 204-FN**, waiving tuition for state troopers enrolled in any state school, college or university. (St. Jean of Dist. 20 - To Education)

**SB 205-FN**, relative to the establishment and funding of a review board to address grievances of tenants and owners of manufactured housing parks. (Pressly of Dist. 12; Nelson of Dist. 13; Shaheen of Dist. 21; Disnard of Dist. 8; Fraser of Dist. 4; D. Cote of Hillsborough Dist. 25 - To Executive Departments)

**SB 206-FN**, relative to liquor licenses for caterers. (Nelson of Dist. 13; Pressly of Dist. 12 - To Ways and Means)

**SB 207-FN**, relative to notification of employee bargaining units prior to introduction of legislation amending the retirement statutes. (St. Jean of Dist. 20 - To Internal Affairs)

**SB 208-FN**, relative to the administration of the tax on legacies and successions and other tax laws relating to decedents. (Podles of Dist. 16; Record of Hillsborough Dist. 23; Martling of Strafford Dist. 4 - To Ways and Means)

**SB 209-FN**, relative to issuance of a notice or citation by the probate court to a court-appointed fiduciary for failure to file an inventory or an account of administration and to requirements for notice to beneficiaries. (Podles of Dist. 16 - To Judiciary)

**SB 210-FN-A**, relative to drugged driving and making an appropriation therefor. (Fraser of Dist. 4; Colantuono of Dist. 14 - To Judiciary)

**SB 211-FN**, to include probation and parole officers in group II of the New Hampshire retirement system. (J. King of Dist. 18; Podles of Dist. 16; Sytek of Rockingham Dist. 20; Murphy of Hillsborough Dist. 40 - To Insurance)

**SB 212-FN-A**, relative to the sweepstakes revenue distribution method. (J. King of Dist. 18; Nelson of Dist. 13; Hollingworth of Dist. 23; Currier of Dist. 7; Barody of Hillsborough Dist. 39; Laurent of Cheshire Dist. 2; O'Rourke of Hillsborough Dist. 35 - To Ways and Means)

**SB 213-FN-A**, relative to the distribution of meals and rooms tax revenue. (J. King of Dist. 18; Nelson of Dist. 13; Laughlin of Hillsborough Dist. 38; Barody of Hillsborough Dist. 39; Rep. O'Rourke of Hillsborough Dist. 35 - To Ways and Means)

**SB 214-FN**, exempting certain programs or projects of the Christa McAuliffe planetarium from the state's competitive bidding process. (Heath of Dist. 3 - To Executive Departments)

**SB 215-FN**, relative to a minimum retirement allowance of certain retired teachers. (Blaisdell of Dist. 10; Hough of Dist. 5 - To Insurance)

**SB 216-FN**, relative to possession of illegal drugs while operating a motor vehicle. (Roberge of Dist. 9; Jasper of Hillsborough Dist. 19; Hashem of Strafford Dist. 3; Spencer of Strafford Dist. 4 - To Transportation)

**SB 217-FN**, to permit designation of enterprise zones by the director of economic development, department of resources and economic development. (W. King of Dist. 2; Shaheen of Dist. 21; R. Hill of Grafton Dist. 1 - To Economic Development)

**SB 218-FN**, relative to higher education benefits for children of public safety personnel killed in the line of duty. (Hollingworth of Dist. 23; J. King of Dist. 18 - To Education)

**SB 219-FN**, restructuring the state art fund. (Colantuono of Dist. 14 - To Public Affairs)

**SB 220-FN**, relative to foster care. (Disnard of Dist. 8 - To Public Institutions, Health and Human Services)

**SB 221-FN**, relative to discount car insurance rates for the elderly. (Delahunty of Dist. 22 - To Insurance)

**SB 222-FN**, relative to a study of alternative transportation. (Nelson of Dist. 13; Pressly of Dist. 12 - To Transportation)

**SB 223**, relative to prohibiting the study committee established under 1989, 281:1 from considering whether to move or relocate the Dover toll plaza. (Shaheen of Dist. 21; Cohen of Dist. 24; Corte of Strafford Dist. 6; W. McCann of Strafford Dist. 7; K. Wheeler of Strafford Dist. 4 - To Transportation)

**SB 224**, relative to increasing the bonding authority for industrial development projects for the city of Dover. (Shaheen of Dist. 21; W. McCann of Strafford Dist. 7; Corte of Strafford Dist. 6; Torr of Strafford Dist. 6; Kinney of Strafford Dist. 6; Gilmore of Strafford Dist. 7 - To Public Affairs)

**SB 225-FN**, relative to the higher educational building corporation and loan eligibility. (W. King of Dist. 2; Nelson of Dist. 13 - To Education)

**SB 226-FN**, establishing the town of Plaistow as a one-town solid waste district under RSA 149-M. (Delahunty of Dist. 22; Senter of Rockingham Dist. 9 - To Environment)

**SB 227-FN**, relative to tuition free classes at state universities for local police officers. (J. King of Dist. 18 - To Education)

**SB 228-FN-A**, relative to the treatment of New Hampshire trusts. (Fraser of Dist. 4 - To Ways and Means)

**SCR 1**, relative to L-Tryptophan. (W. King of Dist. 2; Rep. Arnesen of Grafton Dist. 7 - To Public Institutions, Health and Human Services)

Out of Recess.

### LATE SESSION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, February 5, 1991 at 1:00 p.m.

Adopted.

Senator Currier moved to adjourn.

Adopted.

Adjournment.

*February 5, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Oh God our help in ages past and our hope for years to come. We need your help Lord in this Persian Gulf crisis as we pray for the safety of our men and women in service over there. We also*



*pray for help for the economic situation in our country as well as our state. God help us Lord.* Amen.

Senator Disnard led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### COMMITTEE REPORTS

**SB 40**, an act making the pink lady's slipper the state wild flower. Environment committee. Ought to Pass. Senator McLane for the committee.

SENATOR MCLANE: There's a war on and it seems perhaps a little frivolous to be talking about small pink flowers. But this is an important bill because I think it talks about what we're here for. And I have before me, and I would be happy to show you all, over four hundred and fifty signatures from constituents of many of yours, from the New Hampshire Federation of Womens Clubs asking me to put in this bill. The petition, many of which are signed on both sides, by school children and by people. This happens to be the Nashua one. One from Northwood. The petition says that New Hampshire already has a State flower and that is the purple lilac. But it has no official State native wild flower. And where as the purple lilac is a worthy, popular and beautiful State flower, but it is a cultivated plant and native not to New Hampshire but to Eurasia. It is noted the letters that came with these petitions that when the pilgrims arrived in this country for the first time, one of the first flowers that they saw was the wild native pink lady slipper. I have a picture here for any of you to see, but, I would note that in the public hearing there were twelve third graders from the Concord Christian School that came to the hearing. Every single one of them knew what a pink lady slipper was, half of them have seen one. I think that all but two were in favor of this bill. I am very worried about the fact that Senator Oleson is much more interested in putting in for the State wild flower the jack-in-the-pulpit. But as a good feminist I know that he'll come around and think that the pink lady slipper is perhaps more beautiful. And so, I would urge this as our first bill of the session as symbolic of the fact that New Hampshire has beautiful things that should be protected and that the pink lady slipper is first among them.

SENATOR PODLES: Senator could you tell me if the yellow lady slipper is also a wild flower?

SENATOR MCLANE: It is not only a wild flower, but it is an endangered wild flower. The pink lady slipper is a plant of concern, but the yellow lady slipper is extremely rare.

SENATOR PODLES: Would I be able to pick the blossom off of the pink lady slipper?

SENATOR MCLANE: No, matter of fact it would cost you sixty bucks a blossom. And that is true already. We have already passed the endangered plant act last session, two sessions ago. I always thought that the pink lady slipper was protected or that God would strike you dead if you picked one. But it turns out that all it would do is cost you \$60 if it isn't on your own land. You can pick them on your own land.

Adopted.

Ordered To Third Reading.

**SB 22**, relative to changes in reimbursement requirements for psychologists. Insurance committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: This bill changes the requirement that psychologists or social psychologists have to meet before they can get third party reimbursement. There are roughly four-hundred psychologists in the country, I mean in the State rather. Not all of them belong to the National Register of Health Service Providers. Even though the state's standards are the same or greater as the standards of National Register of Health Service Providers. We were assured that the passage of this bill would not create more broader, more people would be able to take advantage of third party requirements. It would simply eliminate an arbitrary requirement that you belong to an association. The committee urges adoption of the committee report.

Adopted.

Ordered To Third Reading.

Senator Russman. (Rule #42)

**SB 30-FN**, relative to insurance coverage for and unfair claim settlement practices concerning chiropractic treatment. Insurance committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

### **Amendment to SB 30-FN**

Amend the title of the bill by replacing it with the following:

## AN ACT

establishing a committee to study chiropractic  
third party compensation.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study the issue of chiropractic third party compensation. The committee shall be comprised of 5 senators to be appointed by the chairman of the senate insurance committee, who shall also select one of the 5 senators to serve as chairman of the committee.

2 Duties.

I. The committee shall be appointed and hold its first meeting within 30 days after the effective date of this act.

II. The committee shall study chiropractic third party compensation with input from chiropractors, commercial insurance providers, and the insurance department.

III. The committee shall report its findings and recommendations for legislation to the chairman of the senate insurance committee on or before November 1, 1991.

3 Mileage. Committee members shall not be compensated, but shall receive mileage at the legislative rate.

4 Effective Date. This act shall take effect upon its passage.

## AMENDED ANALYSIS

This bill establishes a committee comprised of senators to study chiropractic third party compensation and to report to the chairman of the senate insurance committee with recommendations for legislation.

SENATOR COLANTUONO: Since the committee report, we have additional information that has come forward and the need for further consideration. It's the sense of the committee that this bill should be recommitted, so I move to recommit.

Adopted.

SB 30, IS RECOMMITTED TO INSURANCE.

SB 77-FN, creating a presumption that cardiovascular disease and certain cancers in police officers are occupationally related. Insurance committee. Inexpedient To Legislate. Senator Bass for the committee.

SENATOR BASS: It pains me to make this statement urging that the committee, that the Senate kill this very important bill which certainly is well intentioned by its distinguished sponsor. However, it came to the committees attention that passage of this bill would



probably constitute a clear violation of article 28 A of the New Hampshire Constitution, which prohibits the assignment or mandate of new programs to towns and municipalities without proper funding. So the committee urges that you adopt the report of Inexpedient to Legislate.

Committee Report Adopted.

**SB 141-FN**, to extend medical benefits to group II members on disability retirement who become group II members after June 30, 1988. Insurance committee. Ought To Pass With Amendment. Senator Nelson for the committee.

### **Amendment to SB 141-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

to extend medical benefits to group II members on  
disability retirement who became group II  
members after June 30, 1988.

Amend the bill by replacing section 1 with the following:

1 Medical Benefits Extended. Amend RSA 100-A:55, I to read as follows:

I. The additional benefits provided under RSA 100-A:52 shall apply to persons who are active or retired members of group II as of June 30, 1988, **and to persons who are group II members on disability retirement as the natural and proximate result of injuries suffered while in the performance of duty who became members of group II after June 30, 1988.** Such additional benefits shall not apply to **other** persons who become members of group II after June 30, 1988, without future legislation to include them. It is the intent of the legislature that future group II members shall be included only if the total cost of such inclusion can be funded by reimbursement from the special account established under RSA 100-A:16, II(h).

### **AMENDED ANALYSIS**

This bill extends medical benefits under RSA 100-A:52 to group II members on disability retirement as a result of injuries suffered while in the performance of duty who became members of the New Hampshire retirement system after June 30, 1988.

SENATOR NELSON: This bill, if you notice on page 10 of the calendar, contains the amendment. We are not enlarging the group, we are just extending benefits. We are going to send it over to finance to

make sure that there is enough money in this group before we pass it, but we do think that the policy is good.

SENATOR HUMPHREY: Yes, can you give us a plain english explanation of this bill, why its necessary and what it will cost, and whom it will cost?

SENATOR NELSON: Well I'll attempt it in plain english. That might be tough.

SENATOR HUMPHREY: Thank you.

SENATOR NELSON: What it does is extend medical benefits to Group II members on disability that were injured before, excuse me?

SENATOR HUMPHREY: What's group II?

SENATOR NELSON: Police, Firemen, anyway what its going to do is, and the amendment says it is to persons who are Group II members on disability retirement as a natural and approximate result of injury suffered while on performance of duty who became members of the group after June 30, 1988. I guess a while ago when they worked on this, and I don't know the specific date, the cutoff date was 1988. And according to the testimony given, there aren't that many people, but for some reason if an individual is injured on the job while in the line of duty, they might have trouble getting the disability insurance. The workmens' compensation does not cover it. So what they are suggesting is that this bill be sent to finance so that they can take a closer look at the amount of money that is there if it covers it. Because if we don't have the money, we can't cover it.

SENATOR HUMPHREY: Who is going to pay for these benefits?

SENATOR NELSON: There is money in an account that these people contribute to. I'm not sure how much money is in there because I wasn't dealing the specifics of the money. That is why they suggested in the committee that it be sent to finance. I believe Senator Blaisdell is in a better position to answer any question pertaining to the amount of money in the fund.

PRESIDENT DUPONT: Senator Humphrey, it will be referred to finance after we adopt the amendment for them to take a look at the financial implications.

SENATOR HUMPHREY: I see. Further question if I may? Is this program self funded by the potential beneficiaries?

SENATOR NELSON: Clarification. You mean totally funded by an individual?



SENATOR HUMPHREY: Yes.

SENATOR NELSON: I believe there's a portion of the, well a good portion comes from the individual and a percentage comes from the city or town. I meant employer.

SENATOR HUMPHREY: Well will the towns then have any latitude in whether they're willing to extend this benefit?

SENATOR NELSON: I think that in terms of the specific questions relating to the financial aspects of this legislation the best person is the chairman of finance. So, I'd like to, if it's possible.

SENATOR NELSON: I yield to Senator Blaisdell.

SENATOR BLAISDELL: Senator Humphrey, most of these benefits, in fact all of them are funded out of what they call the special account. Which is any earnings over eight percent in the retirement system. Anything over eight percent comes out of what we call the special account. That's how we fund the different police, firemen, and teachers are all separate. Group I are teachers, Group II would be the people with hazardous duties which is firemen and police. And there is a controversy right now on if there is money in there to be able to fund the particular things that Mary, Senator Nelson is talking about. That's why we're sending it to finance. HB 51 in the House, which I will be reporting when I report the next bill, is having a big discussion. There is going to be a big discussion on retirement. I know where you are coming from. You want to know what the share of the cities and towns are going to be because it is a controversy right now of how much it is going to cost. And that's what we are looking at. I can assure you that if the money is not there in the account, that Senate Finance will not bring up an ought to pass. You will get two chances at this by the way. We're going to be sure that there is money in the account. For instance, at the time right now there is about \$8,000,000 in the teachers account for what I am going to report next. But there is a controversy on how much it's going to cost for police and firemen. 1.8 million it would cost for a benefit that she is talking about; 1.2 million for another benefit that they want. So we had to really take a hard look at it. We have had an audit of the retirement system. There is a controversy and I think I know where you're coming from, Senator, and we're going to be sure that it's not going to put a burden on the cities and towns.

SENATOR HUMPHREY: I thank the Senator for his explanation. I still don't entirely understand the situation. I don't mean to try the patience of my colleagues, but I guess I'll have to for the moment. If I might address a further question? Is the Senator saying that these benefits are paid fully out of the special account, sort of a surplus account?



SENATOR BLAISDELL: It's like anything. As I said, the excess earning over 8 percent. There's a discussion in the House right now on HB 51 whether or not we should raise that to 10 percent, or 12 percent or nothing at all. There are people who don't think that the special account is worthy. I happen to think it is. It has been able to fund many benefits to our teachers. When I first got here Senator, I found that a teacher with thirty-eight years of service for the State of New Hampshire who worked very hard for us, ended up with a \$99 a month pension. And certainly we have brought that up to now where it is probably oh maybe, \$350 a month. Really, these people have put the money into the system. Cities and towns also contribute. Not a lot really. The state really puts nothing into it.

SENATOR HUMPHREY: Mr. President this is a bill that deals with medical retirement. Is that correct? No, medical benefits to those who are retired on a disability? If I may address a question? It is paid out of an account that is filled up with a surplus, when there is such a surplus of excess earnings in the retirement fund. How will the benefits be paid in those years when there is no money in the account?

SENATOR BLAISDELL: There are no benefits Senator. You have a cap, by the way, that a certain account has to be funded up to 140 percent. Firemen right now are funded up to 125 percent. We have a very good protection in that particular account. If there is no money to pay the benefits, which there has been over the years, we have not paid benefits. But since, we established this special account and things worked great. As you know the economy was great.

SENATOR HUMPHREY: Was.

SENATOR BLAISDELL: Yes, it worked well. Now that the problems you know from Washington, giving us all kinds of problems in the state we are now having to take a second look at all the benefits and that is exactly what we are doing Senator.

SENATOR HUMPHREY: Parliamentary inquiry. Are Senators only permitted to ask questions and not permitted to make statements on the legislation?

PRESIDENT DUPONT: Senator, we would recognize you to speak if you care to at the present time.

SENATOR HUMPHREY: Well, only briefly, Mr. President. I thank the chair. I look at what is described as the report on this bill. It constitutes one sentence. And I recognize the bill as to be referred to another committee. Thank goodness, but this is not an awful lot in which to base a judgement, it seems to this Senator, on a matter that

could have pretty substantial repercussions for a great many years. And so I am puzzled, am I missing something here, is there a fuller report, how are Senators suppose to understand this stuff apart from reading the bill, which doesn't always, because it often consists of amendments to the existing statute. It doesn't often tell you the whole story.

PRESIDENT DUPONT: Senator, it might, if I could respond, it might be helpful not only for yourself, but others that have an interest in the retirement system for the chair to set up a briefing of sorts to bring anyone in that has questions about retirement. It is going to be an issue that's going to be of major impact this session, and it is very, very complex. So, it might be helpful. Senator Nelson would like to speak and if you would yield to her, Senator, she may respond to that.

SENATOR NELSON: Senator Humphrey, I too agree that it is extremely complicated and because there are several bills coming through the Senate Insurance Committee. Given the situation and the state of the economy, like yourself, not knowing enough about it, being the first time on Insurance what we decided to do was send down a whole package of all the Insurance bills that are coming through so that we can have a broad picture. I think there are three or four others that are coming in. I also know that Senator Delahunty has arranged a briefing for the rest of the members on the committee; Senator Colantuono and Senator Russman, Senator Hollingworth were all new, to get some more information. So that was one of the reasons and I don't mind sharing that with you. That was one of the reasons why we're trying to send all those bills to be looked at. And as you know in the House, I believe all those bills are being put with a task force with Charlie Connor in LBA to look them over simply because of those concerns that you are now, it seems to me are addressing. I just wanted to let you know exactly why and how this all happened. I don't know if that is part of what you're interested in?

SENATOR HUMPHREY: I thank the Senator for her explanation. Would it be possible in circumstances like this where a bill is especially complex where its implications are especially complex that we get a fuller written report so that we don't in addition to everything else we do, seek out of special briefing. Would it be possible for us to get a fuller written report on this bill?

PRESIDENT DUPONT: Senator we can take a look into that, that's usually not the practice, usually it's done on a verbal basis. The LBA



office usually does a financial impact statement which would be on the back of the bill, but we can discuss that, if you think that would be helpful.

SENATOR RUSSMAN: Thank you. Just briefly, I would point out that myself and Tom Colantuono were new to that committee as well and new to the Senate. But it seemed from the testimony that the idea of the increases were worthy but, the issue came up with how are they going to be paid for. And that's how Tom and I and some others on the committee were concerned about that so, until the Finance Committee looked at it, there really wasn't a way to determine if there was going to be enough money, so that's why we recommended it as such so that it could go down there to Finance to be looked at on that side of it. Certainly they were worthy of getting the raises and so on and increases, but the issue is how do we pay for it. So we thought that we would give them a chance to look at it then bring it back before us.

SENATOR DELAHUNTY: Senator Humphrey, the bill was heard in the Senate Insurance Committee, and the testimony that has been discussed here today. There's also a committee report that comes out. When you see these bills, if you request it, I would be glad to make it available to you and you can read the committee report from Insurance and then after today we vote on this. If we vote on this today this bill goes on to Senate Finance and then another hearing comes up. So, you have an opportunity again to attend that hearing or raise questions at that hearing. We would be glad to represent you at the hearing. And further reports come to the floor for a final vote, so that's really your protection and I can understand and appreciate what you're looking for, but the bill is going to be heard twice and there will be two full reports on it before it comes to the floor again.

SENATOR HUMPHREY: What are these reports I keep hearing about?

SENATOR DELAHUNTY: They are committee reports. The bills are assigned to a committee. And then the committee, this being the Senate Insurance Committee, get a report and the members of that committee got a full report. They received the minutes of that hearing. That hearing then comes to the floor and that's when you ask your questions. And that's the documentation that we use to answer your questions from that hearing and then we take a vote on the floor. But what we are really asking you today is, I guess trust us. Send that on to Senate Finance and what you are approving today, what we are saying today is testimony that we felt justified sending it on further to Senate Finance for further review. Senate Finance



gets it and very frankly, I don't think there is money available, but we are letting them look at it and see if there is money available to pass it when we come into it again in another hearing. You can either come to the hearing and testify, your opposition, or you're in favor of, and then get the report and it comes to the floor again with the floor debate and then passage.

SENATOR HUMPHREY: I want to make it clear that I trust every Senator in this body, it's just that I wanted to verify it. Verify my trust. But the Senator keeps referring to a report, I think he means the transcript.

SENATOR DELAHUNTY: That is the committee report, yes.

SENATOR HUMPHREY: There's no committee report as such apart from this one sentence? Am I correct?

SENATOR DELAHUNTY: Yes, you are correct.

PRESIDENT DUPONT: Usually, Senator, the committee report would also include the remarks of the Senator that reported the bill out, which gives a sense of the committee on a particular piece of legislation.

SENATOR HUMPHREY: Thank you.

Amendment Adopted.

Referred To Finance. (Rule #24)

**SB 148-FN**, an act providing a 5 percent cost of living adjustment for Group I retirement system members and providing a 10 percent cost of living adjustment for teachers retired prior to July 1, 1957. Insurance committee. Ought To Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: This is a bill that historically you see every session. I don't want anybody to get too nervous about those that are retired before 1957, because I think there are three left and they average 104 years of age. When I first started on this bill many, many years ago there was 120. As I said we are down to three so I don't think it's going to cost us a hell of a lot of money, but this bill here is an attempt to retain the value of retirement benefits for those people who worked so long and hard for the people of our state of New Hampshire. This is Group I, which are teachers. Their account is funded very well. We have some problems with, as I said I talked with Senator Humphrey, we have some problems with the other two accounts. I would hope that you would send this down to finance, there's a big discussion going on with HB 51 that Represent-

ative Kay Ward will be sending over to us. I did this specifically to be sure that the Senate had a position. People came in and spoke to HB 51 and I was not even interested in what they were saying about HB 51. I think the Senate should have their position. We'll look in Finance, if the money is there we will fund it, if it's not there we will not fund it. I would hope that you would pass it and send it down to the Finance committee and we will do the very best we can.

SENATOR MCLANE: Senator Blaisdell, I have many retired state employees in my district and I know they have a deep concern about this bill. Would you say that the state of New Hampshire, in the process of hiring and paying these people over the years, had an obligation to provide for their retirement in a manner that they promised them over the years that they were negotiating for pay increases which often didn't come?

SENATOR BLAISDELL: That is absolutely true, Senator McLane, and I would hope that if any kind of furlough program ever passes this legislature, and I hope it doesn't, but if any kind of furlough program ever passes this legislature that those people who haven't taken those furloughs to be sure that their retirement and their medical benefits are not interrupted. I hope that's a part of it.

SENATOR HUMPHREY: Senator Blaisdell, the language of the bill calls for additional allowances of 5 percent in the case of Group I, 10 percent in the case of teachers and so on. Additional amounts, what does that mean, in addition to what?

SENATOR BLAISDELL: In addition to the amounts of what they received today.

SENATOR HUMPHREY: Their present benefits?

SENATOR BLAISDELL: Their present benefits, so they would get a cost of living increase if it's there, of 5 percent. As I said, the other people would get 10 percent, those people are the old teachers. I just told you there are only three left so it isn't going to cost us a lot of money out of that fund, but, you're right Senator, it's a 5 percent cost of living increase that is given to those people who worked for years for the state of New Hampshire.

SENATOR HUMPHREY: How long has it been since there were cost of living increases for this group?

SENATOR BLAISDELL: I believe they got a cost of living increase in the last, two years ago. The last session of the legislature. Two years ago Senator.

SENATOR HUMPHREY: Why does the Finance committee not give us some clue before we are called upon to vote about whether these increases can be afforded?



SENATOR BLAISDELL: I think, Senator, what we are saying is this is a policy decision by the Insurance committee. The financial end of it comes down. When it comes down to me in Finance you are going to have every opportunity in the world to look at the actuarial accounts, what bucks is, and the buck consultants, what Harry Descoteau from the retirement system speaks to and what Mr. Baldwin, the head of the retirement system. They will all come in and speak to us. And that is the time that you should have, be in attendance at that Finance committee and I'll be sure that our secretary sends you a notice when that hearing is going to be held.

SENATOR HUMPHREY: My concern is that by passing this stuff before we look at whether or not we can afford it, we are raising expectations. And once those expectations are raised by gosh, the recipients whose expectations have been raised are going to be after us to fulfill them as quickly as possible. To me this seems to be the cart before the horse. Aren't we putting the cart before the horse? Shouldn't we be discussing whether we can afford this before we promise benefits that people will insist they be payed at some point?

PRESIDENT DUPONT: If I could just respond Senator, that the process is Senator, that the policy committee looks at the policy and makes a determination, it goes down to Senate Finance, they will produce documentation that will speak to whether we can afford it or not. Then it will come back up to the floor for another vote, so the issue of finance's will be addressed in the subsequent vote.

SENATOR HUMPHREY: Well then it seems to me that the procedure is faulty, can't we do something about it? At least in an informal way so that we have some advice from the Finance committee before we get to the stage on the floor where we are in effect, promising benefits when we don't even know if we can afford to pay them.

PRESIDENT DUPONT: On a procedural matter, Senator, you know and it's a poor excuse, but this is always the way that we have conducted policy verses financial issues. That the committee needs to make a policy decision about whether there are merits to what wants to be done and Finance is allowed to make the decision whether or not we can afford it, and that would ultimately be the way that it's typically done and we can perhaps continue this discussion about whether it's the appropriate manner subsequent to this.

SENATOR HUMPHREY: I think that we ought to continue the discussion right here! This is public business. It's an important matter of fiscal prudence and stewardship and for us to be voting benefits when we don't even know whether or not, we haven't the foggiest idea whether or not we can afford to pay them. It's the



height of your responsibility. I don't know why we can't set up at least an informal procedure which we are advised in advance whether such a road is futile or political posturing, or cruelty raising expectations that aren't going to be fulfilled.

Recess.

Out of Recess.

PRESIDENT DUPONT: Senator Humphrey has raised a procedural question and so that everyone is clear, what we are doing on this legislation is putting it on to second reading and referring it to Finance. The third reading and final passage will not take place in this legislation today and that is how Senate rule #24 reads on any bill that appropriates money from any source of funding. So that you are all clear, the motion will be second reading and open to further amendment with a referral to Senate Finance. So if there are any questions about the procedural matter that is before us I will try to respond to them. If not, I will recognize Senator McLane for a question.

SENATOR McLANE: I wonder if you know that on the back of each bill that has a fiscal note saying FN on the front, on the back we have two categories that have to be answered. One is the fiscal impact and this is going to be made much clearer in a bill that we have coming before us later that says local is a word that is going to note anything that has a local impact, but I wonder if you notice that the methodology on the back does have that the money comes out of the special account and it has the cost. Now you are correct. I wonder if you knew that it doesn't tell how much is in the special account, but it does at least have a fiscal note that tells how much it is on the back of every money bill and that has been new in the last fifteen years. But I do believe that you will find that helpful in your question.

SENATOR HEATH: Senator McLane, isn't it also true that the fiscal notes are arrived at by essentially the legislative budget assistant calling the department involved and asking them for a fiscal impact and if the department likes the legislation they have a light impact and if they don't like the legislation they have a heavy impact?

SENATOR MCLANE: I would answer no to that question, but perhaps because I come from Concord and represent more state employees, I'm a little more trusting than you are to the state system.

SENATOR HEATH: I think you said it all. Thank you.

SENATOR HUMPHREY: The retirement system actuary indicates that the bill, the total cost of this bill \$16.8 million to be drawn from the special account. How much money is in this special account?

SENATOR BLAISDELL: As of today I believe, of course the system itself is worth about \$1.3 billion. We are talking about what the whole retirement system is worth. I believe for the teachers quota I think there is about \$8 million in the special account as of now. I haven't got the up-to-date figures. We tried to get it in the fiscal last week.

SENATOR HUMPHREY: What my question really is, is there the money to pay these COLAS.

SENATOR BLAISDELL: Well I guess I'd have to say I don't know, Senator. That's why I am asking it to be sent to Finance so that we can take a look at the policy question. I you know you have consultants and they can tell you this, but we didn't raise really a lot of hopes from the retirement people because in the speech I made, it said it may not be possible to provide full quota's this year. But at least we should hold on to the possibility. Senator when I get on my feet here, I am going to do a little TAPE INAUDIBLE. If I can I just want to exactly tell what the retirements system have done. O.K. when we got here in the retirement system a few years ago there was a man in Keene, New Hampshire named Roy Terril who worked for thirty-eight years for the state of New Hampshire. We found him in a home with pneumonia. His pension at that time after thirty-eight years of hard work for the state was \$99 a month. \$99. And three days before he died he got his first check for around \$350. That buried him, because that's all he had. He didn't have anything else. This is what we tried to do over the years. We have a built-in protection on the retirement system. There has to be a cap as I said of 140 percent on teachers. If it isn't over funded by almost that 40 percent you get nothing. It has to be protected. That's what we've tried to do. But Finance historically, all the years that I have been on Finance with other Chairman, we brought the bill down to Finance, we looked at the fiscal impact of this bill and if we had the money we funded the COLAS. If we don't have the money, and this year there's a possibility that we will not have the money. That we are not going to be able to fund that 5 percent cost of living increase for those teachers that probably get around \$380 a month to live on, so maybe we are not going to be able to do it. I hope we can. I'll hold it as long as I can and give them all the hope in the world, truthfully, that maybe they can get that 5 percent because certainly if they get their social security that's going to cost them more. I think one retiree told me that after getting his 5 percent COLA that we so gracelessly granted to him and then the cost of social security came in his net check increase was .38 cents, I leave you with that thought.

SENATOR HEATH: Senator Blaisdell, questions always come up in my mind when we have done this kind of thing and Senator Hum-



phrey's questions bring that forward again, is how you separate the work of the policy committee in this case with the work of your committee? How do you separate the policy in this bill from the financial consideration, essentially they're one in the same, aren't they?

SENATOR BLAISDELL: Well not really, I guess if you can have a policy of funding colas and think it's a very good idea, but the policy the Finance committee takes a look at it and says whether or not you have the money. I think those are two separate things. I still think, and as I said on Insurance, it's a great thing to increase the cost of living increase for these people of 5 percent. But if we don't have the money, anymore than anything else I look at in Finance, Senator Heath, this year is going to be one of the tougher years. And as I say, most Senators have got an idea what we should fund and what we shouldn't. It's going to be some really hard decisions made this year. I'm going to make them or the Senate Finance is going to make them and then you're going to be the one to vote on it. When this hearing comes up I invite you to come and sit and listen to it. We will bring in all the actuaries, we'll do everything you want. That's all I can tell you. Then it's going to be up to you. You have to vote, just like I have to.

SENATOR HUMPHREY: Mr. President, I understand that the rules require the procedure as it is being carried out here, but I think that the procedure stinks, frankly, and I think it's exactly backwards and I would like to ask when is it appropriate to amend the rules? What I would propose is not a formal proposal now, but I think it's simple common sense that the Finance committee ought to act first and look into the fiscal implications of a proposal before the authorizing committee or whatever you call it, acts as it is done now. The policy committee.

PRESIDENT DUPONT: Thank you Senator.

SENATOR HUMPHREY: When is it appropriate to amend the rules?

PRESIDENT DUPONT: We will be having a Rules committet which will be announced shortly. The date is February 12, immediately after the session and any recommendations or suggestions about rules can be made to that committee at that time.

SENATOR HUMPHREY: And that they can be adopted, the recommendations of the Rules committee can be adopted anytime during a session?

PRESIDENT DUPONT: They can Senator. It would require 2/3 vote of the Senate to amend the Senate Rules at this point in time.



SENATOR HUMPHREY: I thank the chair.

Referred to Finance. (Rule #24)

Senator J. King (Rule #42).

Senator Roberge (Rule #42).

Senator Heath (Rule #42).

**SB 29-FN-A**, establishing a legislative ethics committee and making an appropriation therefor. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

### **Amendment to SB 29-FN-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a legislative ethics committee.

Amend RSA 14-B:3, I as inserted by section 1 of the bill by replacing it with the following:

I. Issue interpretative rulings explaining and clarifying any rule or regulation within its jurisdiction. The committee shall also render an advisory opinion, in writing within a reasonable time, in response to a written request by a member, concerning the application of any law, rule, or regulation within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion. Hearings held on a matter within the jurisdiction of the committee shall be conducted in executive session in accordance with RSA 91-A. The committee shall issue an opinion in a timely manner.

Amend RSA 14-B:3, III as inserted by section 1 of the bill by replacing it with the following:

III. Receive sworn complaints and investigate allegations of improper conduct which may reflect upon the legislature, relating to the conduct of individuals in the performance of their duties as members of the legislature, or as officers or employees of the legislature, and make appropriate findings of fact and conclusions with respect to such conduct. Deliberations on such sworn complaints shall be conducted in executive session in accordance with procedures set forth in RSA 14-B:4 and established by the committee under RSA 14-B:5. The committee shall consider any sworn complaint and shall process each complaint in a confidential manner.

Amend RSA 14-B:4, I as inserted by section 1 of the bill by replacing it with the following:

I. Any person who knowingly and willfully swears falsely to a sworn complaint does so under penalty of perjury, and the committee may refer any such case to the attorney general for prosecution. No investigation of conduct of an individual, and no report, resolution or recommendation relating to that individual, may be made unless approved by the affirmative recorded vote of not less than 5 members of the committee. No other resolution, report, recommendation, interpretive ruling, or advisory opinion may be made without an affirmative vote of a majority of the members of the committee.

Amend RSA 14-B:4 as inserted by section 1 of the bill by replacing all after paragraph IV with the following:

V. If as a result of the initial review under RSA 14-B:3, III, the committee determines that substantial credible evidence exists, but that the violation, if proven, is not sufficiently serious to justify any of the penalties expressly referred to in paragraph VI, the committee may propose a remedy it deems appropriate.

VI. If as a result of the initial review under RSA 14-B:3, III, the committee determines that substantial credible evidence exists of an offense which if proven would warrant one of the following findings, then the committee shall promptly conduct an investigation. The committee may find that:

(a) No action is appropriate. There is no credible evidence that improper conduct occurred.

(b) No action is appropriate. There is insufficient evidence that improper conduct occurred.

(c) There was improper conduct, and there is agreement by the members to resolve the matter consistent with the prescriptions of the committee.

(d) There was improper conduct, and there is a recommendation of either reprimand, censure, or expulsion.

VII. In conducting initial reviews and investigations under this chapter, the committee shall have subpoena powers. If the aggrieved party refuses to participate in the proceedings, the committee may refer the complaint to the attorney general for appropriate action. The committee shall issue any recommendation for disciplinary action in the form of a committee report to the speaker of the house and the senate president. Before any disciplinary action may be taken against any individual, the report shall be ratified by that individual's respective body of the general court, or, in a case involving a joint legislative staff member, by the house and the senate in joint convention.

VIII. Any member of a committee who is directly or indirectly involved in any inquiries or proceedings before the committee shall recuse himself from participation in such inquiry or proceeding. In the event that a member recuses himself from participation in a par-



ticular case, the appointing authority shall designate an alternate to serve on the committee for that case only.

Amend section 1 of the bill by deleting RSA 14-B:6.

Amend the bill by deleting section 2 and renumbering section 3 to read 2.

### AMENDED ANALYSIS

This bill establishes a legislative ethics committee which will issue rulings and opinions on ethical issues involving the legislature and will investigate charges of improper conduct made against legislators and legislative staff and officers. The committee consists of legislators representing both political parties, 2 public members, and an attorney.

The bill sets out the procedures the committee shall follow when investigating complaints and determining disciplinary measures. The committee is granted the authority to make rules regarding its standards and procedures.

SENATOR BASS: This bill represents the work of the special committee that was established by former Senator, President Bill Bartlett, and former Speaker, Doug Scammon to look into the ethics. The system of ethics that we have in the legislature and study this issue over the summer and make recommendations for legislative action in this term. The committee consisted of me as chairman, Senator Disnard, representative Kent Martling chairman of Judiciary, former representative Andrea Scratam, former speaker Richard Upton, and former attorney general Stephen Merrill. The bill that you have before you today is the product of that committee's work. The bill essentially establishes a committee on ethics. It has three responsibilities. To develop standards and guidelines for legislators to answer specific questions that legislators might have about issues regarding ethics, and to investigate allegations, complaints that might be lodge against any member of the legislature. There is an amendment in the Senate calendar that is essentially technical except for one. A major change, which is the elimination of the appropriation because it's the feeling of the committee that the appropriation can be handled through other means, especially given the tough economic times that we find ourselves in at this point. I was approached this morning by two Senators who brought to my attention some legitimate and important questions that they had and because of the fact that the bill has only been printed for a week and a half and because of the fact that both of these Senators were not in a position to participate or have an opportunity to participate in the process that this special committee was involved in during the summer. I would like to ask at this time that this bill be recommitted



at this time back to the Public Affairs Committee so that these Senators concerns may be addressed and they may be satisfied that this is a piece of legislation that they can full heartily support.

Amendment Adopted.

Senator Bass moved to recommit SB 29-FN-A, to the Public Affairs committee.

Adopted.

SB 29, is RECOMMITTED.

SB 44, permitting municipalities to acquire running liens on property of property owners owing back taxes. Public Affairs committee. Inexpedient To Legislate. Senator Nelson for the committee.

SENATOR NELSON: Excuse me, I would just like to tell my colleagues that I was under the impression that there was a substitute motion being offered and I was distracted. My committee report, sir, is very short. This bill is being brought out as Inexpedient to Legislate and that according to all the testimony presented that day. It exists in other places in the law and at this particular time we didn't see that this bill would accomplish what the sponsor had wanted to accomplish so we voted it Inexpedient To Legislate.

SENATOR HEATH: This bill essentially is, I guess in common parlance is a reverse mortgage. It allowed the equity that people have in their homes in their elderly years. The intent of it was to allow them to use that equity to pay their taxes so that they could remain in those homes and the town pay a continuing running lien for the taxes and the interest on the taxes so that they wouldn't be forced out by property tax on the property that they spent their lives on and raised their families in. In having it drafted the drafters were under a lot of pressure and a lot of them are new to drafting. Apparently, there has been a lot of, I think, inadequate work coming out of there, and much of it is the schedule that we've handed them and the lack of continuity that we have in that office, but in any case I was not aware the time, a good percentage of this is already in law. The objections that the committee, the only objections were some tax collectors, and they've always objected to running a separate column. But I think if we could perfect this piece of legislation in order to give some protection and at the same time satisfy the financial interest of the town in collecting its taxes, it's worth pursuing and for that reason I would ask that you would support me in a motion subsequent to this that I propose to make and if you will, my intention is to speak with the members of the committee and see if we can do some professions on this and bring it in as a floor amend-

ment because I think there's a lot of people who would gain a great deal and the towns lose nothing. If we can do this and Representative Grodin who chairs the county municipal government committee of the House has a strong interest in this and they are pursuing some parallel legislation over there. So with that, Mr. President, I would like to motion to Table this legislation.

PRESIDENT DUPONT: Senator, you rose to speak, and its improper for me to accept your motion at this point in time.

SENATOR BASS: Mr. President, I move to Lay SB 44 on the Table at this time.

Senator Bass moved to have SB 44, Laid On The Table.

Adopted.

SB 44, is LAID ON THE TABLE.

SB 47, an act relative to emergency response personnel. Public Affairs committee. Ought To Pass. Senator Nelson for the committee.

SENATOR NELSON: This bill is doing exactly what the analyses says on the front. It's adding persons who use wreckers for towing purposes to the law requiring notification to certain persons after exposure to an infectious diseases. And if you look at the back of the bill, it will tell you who is in the group now and it's just adding wreckers. Not the wreckers, but the people who tow the wreckers. And it would also say that the head of the wrecking association came in and there are 215 members and they supported the bill. I asked them if there were any extra cost that were incurred, did they mind? They said no. Public Health came in and said that they support this also. There were only two people who testified in favor of the bill; there was no opposition to this bill in the committee.

Adopted.

Ordered to Third Reading.

SB 49, an act relative to electing alternate zoning board of adjustment members. Public Affairs committee. Ought To Pass with Amendment. Senator Bass for the committee.

#### **Amendment to SB 49**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to alternate zoning board of adjustment members.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Alternate Members for Elected Zoning Board of Adjustment. Amend RSA 673:6 by inserting after paragraph II the following new paragraph:

II-a. An elected zoning board of adjustment may appoint 3 alternate members for a term of 3 years each.

2 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill provides that an elected zoning board of adjustment may appoint 3 alternate members for a term of 3 years each.

SENATOR BASS: Thank you, Mr. President. A couple of years ago the legislature enabled local municipalities, if they so chose, to elect zoning board of adjustment members; however there were a members of the boards of adjustment. However there was an oversight in that legislation in that there was no provision made for either election or appointment of alternates. The bill as it was introduced provided a process for the election of alternates, but it was the feeling of the committee that it would be a better policy to allow the zoning board of adjustment itself to appointment its alternates which is the way it was before the other legislation was passed. As a result the committee recommends that the bill be passed with amendment and we urge your support of the committee recommendation.

Amendment Adopted.

Ordered to Third Reading.

**SB 14-A**, an act relative to environmental and engineering studies and acquisition of rights-of-way for the construction of a truck lane on US Route 2 in Jefferson, NH and making an appropriation therefor. Transportation committee. Ought To Pass with Amendment. Senator Olsen for the committee.

### Amendment to SB 14-A

Amend the bill by replacing sections 1 and 2 with the following:

1 Appropriation. The sum of \$500,000 is hereby appropriated for the biennium ending June 30, 1993, to the department of transportation for the costs of rights-of-way acquisition, engineering, and environmental studies, for the construction of a truck lane in Jefferson, New Hampshire on United States Route 2. The truck lane begins in the vicinity of the intersection of New Hampshire Route 115 and United States Route 2 and runs easterly for approximately 1 mile toward Gorham, New Hampshire. The department is further authorized to accept federal and private funds that may be available for



these projects, and this appropriation shall be reduced by the amount of such funds. This appropriation shall be nonlapsing and is in addition to any other appropriation to the department of transportation for the biennium.

2 Bonds. To provide funds for the appropriation made in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$500,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A.

SENATOR OLESON: This bill has been amended 14a and the original bill called for \$1,000,000 to be spent on a passing lane in the Jefferson Highland area on Route #2; however, on re-examination when I met with the transportation people for certain reasons, we put an amendment calling for half a million dollars instead of \$1,000,000. And this was promoted to a certain extent by a member of our committee. I wish to thank him for doing so. The original bill called for 1 mile and eight-tenths and if it would have been built that far it would have interfered to a certain extent to a stone tower and if anybody has traveled this area might have seen on the so called Carter estate. Incidentally, it was built by my grandfather so I did have a concern, too. At the same time, when you come up some eighth of a mile to what is called the Chapel in Jefferson Highlands from there the elevation is the same at the top of Gorham Hill, so it is kind of a down hill grade for that area. It didn't seem right to us if you have a passing lane in this place. Because at that time its practically impossible if a truck is going down at durable speed. I have deliberately stayed at the intersection of 115 when this occurs at the intersection and #2. And it's going east where the construction is being planned. I deliberately stayed there till a pulp truck would come along and then just see how I could pass and it's going a mile up hill and you do not have any place to pass. It's a kind of a binding turn at the so called Chapel and there has been many accidents, in fact at one time, a prominent politician here three times he's been layed out in the parlor of a farm house waiting for the ambulance because he's been driven off the road. And I don't like to have it happen the fourth time to him. The one who had suggested this bill has been the business community, the recreation community and practically anyone who knows the area in this area has contacted me and most certainly have asked for the passage of 14a; however, I do have an expectation that this might be passed over to the Capital Budget where it will be re-examined. Thank you, Mr. President.

Amendment Adopted.

Referred to Capital Budget. (Rule #24)

**SB 25-FN**, relative to obtaining out of state driving records. Transportation committee. Ought To Pass. Senator Currier for the committee.

**SENATOR CURRIER:** This bill requires the director of Division of Motor Vehicles upon receipt, a request of a law enforcement agent for a non-residence motor vehicle record relative to a non-residence arrest for serious traffic violation, to obtain the record from the state of which the non-resident resides certifying its contents and providing a copy of record at the request of the state agency. Basically this bill tightens up some provisions in the law to provide computer generated information from an out-of-state motor vehicle department in terms of trying to bring further prosecution and I am trying to think of the right word, more conviction rates in terms of dealing with drunk drivers and dealing with serious other motor vehicle offenses. This basically is an attempt to bring us up into the twenty-first century in terms of utilization of computers and transferring of data that is valuable in law enforcement.

Adopted.

Ordered To Third Reading.

**SB 54-A**, an act relative to replacing the Plymouth Bridge on NH Route 175A in Plymouth and making an appropriation therefor. Transportation committee. Ought to Pass. Senator Heath for the committee.

**SENATOR HEATH:** This bridge is already on the ten year highway plan. This simply raises its level of priority, it raises it to a first priority and there has been several others that have been raised to a first priority, but this bridge bridges the river between Senator King's district and my own and its the main route of flight from his district to mine. I promised him that I would take that shot and it is an important one. It's essentially the bridge where the traffic goes from one part of the Plymouth campus to the other part, the field house that's in the Athletic activities. And there is an awful lot of pedestrian traffic there. It's in terrible dangerous condition. I think it's an attractive old bridge. A lot of people don't think it's attractive, but it certainly needs an awful lot of work or replacement and this would help move that time when that would take place forward.

**SENATOR NELSON:** What I want to make sure of is on line six of the bill. What this is saying is that the commissioner of the department of transportation is directed to designated this replacement project as the highest priority. What is that going to do to all the other projects in the ten year plan?



SENATOR HEATH: Essentially not an awful lot. We've designated a lot of highest priorities. In fact, I suspect before we get most of the priorities, they will all be designated the highest priority.

SENATOR NELSON: Not only does it designate it to the highest priority, it also says that the work should go out in 1993. My question is, are you telling me that the commissioner would have to ignore the fact that you have put a construction date in there? And it's not going to effect the projects on the ten-year plan?

SENATOR HEATH: They have ignored those facts pretty well so far. Because we have given them an impossible situation to deal with.

SENATOR BASS: Senator, I've been concerned about continuity in the Senate and the fact that Senators get along with one another and I'm concerned about this particular bill because while they are repairing the bridge, how are the people going to get from Senator King's district to Senator Heath's district and vice versa? Is this going to create some kind of a conflict between you two?

SENATOR HEATH: I can answer that and I appreciate your concern with Senators getting along. I guess the answer to that is possibly whichever takes place first, redistricting or the building. I don't know, I suspect that they will put in a bailiff bridge beside it or that they will build another bridge slightly up river and replace that one and then tear, however they manage these things.

SENATOR BASS: This provision is appropriation for the construction of a temporary bridge. Understanding that it isn't easy to get across the Pemigewasset river at that time. Is that correct?

SENATOR HEATH: That it isn't easy to get across the river?

SENATOR BASS: No. That this \$4.5 million appropriation includes sufficient funds for a temporary bridge?

SENATOR HEATH: I understand that that's usually the provision in a bridge bill. Sometimes that temporary bridge is the old bridge. Which is a savings that they would move along at a pace if that is possible.

SENATOR NELSON: I miss this the first time around and I know that you know these answers. That's why I am asking you. Not like myself, you know. It says four million five hundred thousand dollars and am I to understand that that money now sits in the ten-year plan earmarked for this project?

SENATOR HEATH: My understanding is there is no fiscal impact with this legislation. This simply changes the priority. It's my understanding that the existing appropriation level for that bridge. What



has happen, as you well know, is that in that ten-year plan we keep swapping priorities and moving priorities up and money is the real value if you will, as to what gets done. This doesn't speak to an appropriation, this speaks only to what priority it is and it shares the highest priority with other bridges. I would be less than frank if I didn't tell you that there are several highest priorities. As a grammarian I don't understand how that can be, but as a politician I know what's going on.

SENATOR NELSON: Would you believe that this is one that has, the language in this specifically says "the commissioner of the Department of Transportation is designated". Would you believe that the language in which the other bills are written might be a little bit different, including the Governors' highway commission or the ten-year plan which might make a difference?

SENATOR HEATH: I would believe that if you represent that to be so because I trust you thoroughly. You may want to direct a question to Senator King who is the sponsor of this legislation. He might know more particulars.

SENATOR NELSON: When you suggested, if I heard you correctly Senator Heath, that this was replacing, that there were other bridges in competition for the highest priority. Is this in fact knocking out, if you know what I mean, pushing aside changing the order of those other bridges that now hold the priority?

SENATOR HEATH: It's a sharing of the highest priority.

Adopted.

Ordered To Capital Budget. (Rule #24)

**SB 15**, an act relative to special identification of legislation that amends existing revenue statutes which send all or part of certain revenues to subdivisions of the state. Ways & Means committee. Ought To Pass with Amendment. Senator John King for the committee.

### **Amendment to SB 15**

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Revenues Designated to Localities. Amend RSA 14 by inserting after section 47 the following new subdivision:

#### **Revenues Designated to Localities**

14:48 Noting Revenues Designated to Localities. The word "LOCAL" shall be placed after each house and senate bill number of all legislation and all proposed amendments thereto which amend or repeal any existing statute that requires the state to forward all or

part of any designated revenues to the cities or towns. The office of legislative services shall indicate whether new legislation affects revenue sharing statutes. Bills affecting any statute mandating the return of revenue to cities or towns shall not be placed on the consent calendar.

### AMENDED ANALYSIS

This bill requires that the word "LOCAL" appear after the bill number of all bills and amendments that amend or repeal existing statutes that require the state to distribute all or part of any designated revenues to municipalities.

SENATOR J. KING: This bill has shown your concern for what happens to the revenue share that is suppose to go back into the cities and towns. It is a very simple bill, it identifies any legislation now in existence, any legislation that we put in that affects a revenue sharing bill now in existence. Whether it be in full or in part and it is done in a very, very simple manner. Take the number of the bill and write the word local after it. The state in its wisdom many years ago I think Senator McLane said about 12 years ago. They used the words "FN" to let the state know that there was a fiscal note attached. This word "local" would tell the Representatives and the Senators that the people in Concord here are tinkering with the revenue sharing bill, make sure you get a copy of the bill, study it, bring it back to your local so that they will be able to read it. The legislative services will determine whether it's a revenue sharing bill or not. Thank you very much.

A Roll Call was requested by Senator Disnard.

Seconded by Senator Blaisdell.

The following Senators voted yes: Oleson, W. King, Heath, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

Yeas 24

Nays 0

Amendment Adopted.

Ordered To Third Reading.

**SB 58**, an act relative to licenses for games of chance. Ways & Means committee. Inexpedient To Legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: When this bill was heard the sponsor requested that it be withdrawn because it was considered to have

been unnecessary and therefor the committee voted unanimously to recommend Inexpedient To Legislate. There was no testimony in favor of the bill at the hearing.

Committee Report Adopted.

**SB 118-FN**, an act relative to the department of revenue administration. Ways & Means committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN:** This is just a housekeeping bill. There was only one person who testified: Stan Arnold from the department. Basically, it changes some of the requirements in terms of where as now towns and school districts and village districts and those type of things have to report certain things. The Clerk of the County Convention would have to do so. It would change the declaration in terms of adding some language. At the bottom of the declaration on the return of the poll and property tax declarations and basically it's just a housekeeping requirement request by the department. There was no opposition.

**SENATOR DISNARD:** I noticed under the methodology this is not going to be covered. Is this included in the another position or why would we recommend the bill if it's not going to be funded?

**SENATOR RUSSMAN:** I think it's in the budget already, if I'm not mistaken. I think that they are just changing positions. That was my understanding that they were going to; the reason it was not, it was going to abolish one of the positions that is currently unfunded. It's not going to, in other words there will be position there because there already is right now, it wouldn't create funding for it.

**SENATOR DISNARD:** I'm not trying to be difficult Senator, but the last sentence of the methodology that the new position is filled, the cost would be a minimum of \$41,669, or a maximum of \$53,024.

**SENATOR RUSSMAN:** That is right.

**SENATOR DISNARD:** There is money somewhere else in the budget to cover this?

**SENATOR RUSSMAN:** Yes, that is correct. Also that is whether or not the position is going to be filled. If the new position is filled. But there is money in the budget for that.

**SENATOR DISNARD:** O.K. I accept your answer.

Adopted.

Ordered To Third Reading.



**SB 119-FN**, an act relative to the business profits tax, the real estate transfer tax, and the communications services tax. Ways & Means committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN:** This was another housekeeping bill that Stan Arnold appeared before the committee to testify on. In checking my notes the only thing that he did not testify on was the part about the telecommunications service notice and I talked with assistant commissioner Reid this morning on that and it was just a matter of literally changing that from notices being required by registered mail to just regular postage. And other than that it's bringing us into compliance with federal regulations.

**SENATOR NELSON:** I was curious why they were changing it. I didn't quite hear why they were changing it from certify to registered first class mail?

**SENATOR RUSSMAN:** I believe part of it, and my understanding was it was only on the actual notice in the first instance. But if there is going to be a notice of a hearing where they are going to be brought to hearing, where they are brought before a hearing then it would still be by registered mail not less than the seven days prior to. I think part of it was the postage and part of it, obviously, that's quite a bit more expensive to do and that was my understanding in talking to her this morning.

**SENATOR NELSON:** Senator Russman, where there is a penalty of the individual did they mention what happens if they don't get it in this penalty? For saving a few penalties?

**SENATOR RUSSMAN:** No they did not, because it's a practical matter. My understanding of it is that if they don't do it and they get a second notice or they get a notice of some type of a hearing, that is by registered mail. So I suppose at that point their rights are still going to be protected satisfactorily.

**SENATOR HEATH:** Senator Russman, line 18 section 4 changes the language, well actually on the top of page two. To transfer a title between spouses for so applying for a decree. Between spouses is a new language. Can you tell me what the old language is, are we creating a new category of taxpayers?

**SENATOR RUSSMAN:** No, the problem was before. It was unclear when it was between the two, in other words there is no transfer tax such when it's between spouses. But the old language was that it was unclear by looking at that, and I don't have that in front of me in the statutes reference, but in divorce cases and whatnot, there

would be no transfer taxable pursuant to a divorce decree and this just clarifies that. So, it is just between spouses and not between other people.

SENATOR HEATH: This will not pick up new taxpayers?

SENATOR RUSSMAN: I don't see where it would, no.

SENATOR PRESSLY: Senator Russman, would you be so kind as to give some explanation on as to how this would impact the manufactured housing? There is one small paragraph and it only references the statutes by number. Could you give us some idea as to the impact and the change that it will have on manufactured housing, please?

Recess.

Out of recess.

SENATOR RUSSMAN: O.K. Thank you. What it boils down to is that 31:118 was repealed in 1984 so for this paragraph relative to homestead rights to mean anything, it really does have to refer to the new definition relative to mobile homes. So, again it's a good housekeeping measure that almost seems like the previous to this year. It would have referred to something that actually was repealed in 1984.

Adopted.

Ordered To Third Reading.

**SB 19-FN**, an act establishing penalties and fines for use of the blue lights by any person other than a certified police officer. Executive Departments. Ought To Pass with Amendment. Senator Fraser for the committee.

### **Amendment to SB 19-FN**

Amend RSA 266:74, as inserted by section 1 of the bill by replacing it with the following:

266:74 Emergency Lights.

**I.** It shall be unlawful for any motor vehicle equipped with an emergency light to be driven on the ways of the state. This provision shall not apply to vehicles of **any** law enforcement **agencies or** officers, forestry departments, fire departments, volunteer ambulance drivers, volunteer members of fire departments, state, city or town highway or public works departments, public utilities, wreckers, public or private ambulances, private snow removal vehicles, emergency highway service vehicles, postal service vehicles, and such other vehicles as determined by the director. Emergency lights shall

not be in operation except during an emergency, and in the case of private snow removal vehicles, while such vehicle is actively in use in snow removal, and, in the case of postal service vehicles, while such vehicle is actively engaged in delivering mail.

**II. Blue colored lights shall only be used on [law enforcement] vehicles operated by persons with the powers of arrest pursuant to RSA 594, and the possession or use of blue colored motor vehicle lights by any other person is prohibited.** When blue colored lights are installed on a private vehicle [belonging to a law enforcement officer], such lights shall be covered when the vehicle is being driven by someone [other than a law enforcement officer] **without such arrest power.**

**II-a. Notwithstanding the provisions of paragraph II, the operation of any privately owned vehicle equipped with bar lights, shall be allowed by any person with powers of arrest or any immediate family member of any person with the powers of arrest. When operated by a family member, said blue colored lights shall not be activated.**

**III.** The director by rule adopted pursuant to RSA 260:5 shall determine the location, color, and method of use of emergency lights.

**IV. Any person who is convicted of a violation of this section shall:**

**(a) Notwithstanding the provisions of title LXII:**

**(1) For a first offense, be guilty of a violation and fined not less than \$250 nor more than \$500.**

**(2) For a second or subsequent offense, be guilty of a misdemeanor and fined not less than \$500 nor more than \$1,000.**

**(b) If a resident of this state, have his driver's license or driving privilege or, if a non-resident, his privilege as an out-of-state driver to drive on any ways of this state, revoked for a period of not less than 30 days.**

Amend the bill by replacing section 3 of the bill with the following:  
3 Effective Date. This act shall take effect June 1, 1992.

### AMENDED ANALYSIS

This bill clarifies existing law which restricts the use of blue emergency lights to law enforcement vehicles by specifically prohibiting the possession and use of blue lights by any person who does not have arrest powers. The bill also allows the operation of privately owned vehicles equipped with bar lights by any person with arrest powers or by any immediate family members of any person with arrest powers. When such a vehicle is operated by an immediate family member, the bar lights shall not be activated.



SENATOR FRASER: SB 19 clarifies the current use, the unlawful use of blue lights to motor vehicles. The amendments, Mr. President, are reported on page 9 of the calendar. What this bill effectively does is prohibit anyone except a person with arrest power from using blue lights on their motor vehicle. Anyone who is found culpable in using lights that are unauthorized are subject to a fine for first offense of \$250-500, second offense \$500-1000 plus loss of license. It also, the bill also requires that anyone who is operating a motor vehicle with blue lights on it if they're not a member of the family they must be covered. It further states that if a member of the family, another member of the family whose member has the powers that they are culpable for the same penalties should they activate those lights without permission. And that is the bill, Mr. President, and I would be glad to answer any questions. Oh, by the way Mr. President, it's my understanding that Senator Currier will have an amendment.

SENATOR BASS: Senator, what is the problem that the bill attempts to correct?

SENATOR FRASER: Well my recollection, Senator, was that the law was, this was nothing more than clarification of current law where the committee who heard the bill. The bill is sponsored both by Senator Heath and Senator King, who felt that the law as it is today was too loose and it didn't clarify exactly who should be allowed to use emergency blue lights.

SENATOR HEATH: I guess this is to speak in general. But, I'm speaking to Senator Bass's inquiry. There has been a good deal of evidence in one kind of crime and in the crime of rape, the rapist has been unown to use a vehicle with a blue light, pulls over a single women driving alone on a lonely stretch of highway and this light has not been illegal and yet this has been a tool that has been used in the cases of rape. So, one thing of having this would become a crime, there is no good reason to have it and there is good reason to believe that it has been used in the commission of more serious crimes and that's why. That's what is really behind this legislation.

Amendment Adopted.

Senator Currier offered a floor amendment.

Senator Currier: The floor amendment basically tried to address an open end of this that is left by the amendment that wasn't addressed in committee. On page 9 of the calendar, section B currently states revoked for a period of not less than thirty-days, It leaves it open-ended so that a judge could actually do it for 10 years, or 5 years, or for life. And so what we have done in the floor amendment is added an additional phrase and it says for a period of not less than 30 days and not more than 90 days.

**Floor Amendment to SB 19-FN**

Amend RSA 266:74, IV(b) as inserted by section 1 of the bill by replacing it with the following:

**(b) If a resident of this state, have his driver's license or driving privilege or, if a non-resident, his privilege as an out-of-state driver to drive on any ways of this state, revoked for a period of not less than 30 days or not more than 90 days.**

**AMENDED ANALYSIS**

This bill clarifies existing law which restricts the use of blue emergency lights to law enforcement vehicles by specifically prohibiting the possession and use of blue lights by any person who does not have arrest powers. Any person who is convicted of a violation shall be subject to a fine and to a license revocation for a minimum period of 30 days, not to exceed 90 days. The bill also allows the operation of privately owned vehicles equipped with bar lights by any person with arrest powers or by any immediate family members of any person with arrest powers. When such a vehicle is operated by an immediate family member, the bar lights shall not be activated.

Floor Amendment Adopted.

Ordered to Third Reading.

**HOUSE REQUESTS CONCURRENCE**

The House of Representatives has passed the following Resolution with the following title, in the passage of which it asks the concurrence of the Senate:

**HCR 4, supporting the U.S. troops in the Persian Gulf.**

**INTRODUCTION OF HOUSE BILLS**

Senator Delahunt offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered HCR 4, supporting the U.S. troops in the Persian Gulf shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

**SUSPENSION OF RULES**

Senator Delahunt moved that the Rules of the Senate be so far suspended as to dispense with the reference to committee, the holding of a hearing, the notice of report in the calendar and that HCR 4, be on second reading and open to amendment at the present time.

Adopted.

SENATOR DELAHUNTY: I think this bill is self-explanatory. It supports the troops in the mideast and it's a resolution that I think that we are all behind and very happy to be able to show our support for our troops.

SENATOR PRESSLY: To be voting for this I asked the President if we could add some language. I'm not adding the language because this has already been passed by the House and it's probably more important to get the message out. But there's nothing, no reference in here about, and I wish there were time to include this I don't see any referencing to our desire for a rapid resolution and our pursuit of peace in the area and I hope that in the future that there would be some referencing to our pursuit of quick resolution and a peace for the area.

SENATOR BASS: I certainly respect the comments of my colleague from district #12. I would only say that the resolution does say that the state of New Hampshire supports the efforts and the leadership of the President as commander in chief in the Persian Gulf hostilities. And it is my feeling and my understanding that that concern is certainly one which the President of the United States shares and would wish to have the U.S. pursue.

SENATOR PRESSLY: Would the member please clarify his statement? Are you saying that you agree with my statement and maybe it would be a supplement? You agree that it should be in there, that the President wants peace?

SENATOR BASS: No, Senator Pressly. I don't think it's necessary because I think that the President has stated on many occasions that, he and I assume, everybody in the country is eager to bring any hostility to a close. That is certainly priority and I don't really think that it needs to be added to the resolution. That was the gist of my comment.

SENATOR PRESSLY: Thank you.

### **First and Second Reading and Referral**

HCR 4, supporting the U.S. troops in the Persian Gulf.

Adopted.

Ordered To Third Reading.



### SUSPENSION OF RULES

Senator Wayne King moved that the Rules of the Senate be so far suspended as to dispense with the reference to committee, the holding of a hearing, the notice of report in the calendar and that SCR 2, be on second reading and open to amendment at the present time.

**SCR 2**, urging the Federal Energy Regulatory Commission to deny a rate increase for Public Service Company of New Hampshire.

**SENATOR W. KING:** This resolution puts the Senate and hopefully the House thereafter on record against the 180 percent rate increase that the Federal Energy Regulatory Commission has at the moment approved initially in Washington. This rate increase would mean an increase to electric companies at the levels of the New Hampshire electric cooperative in the towns of New Hampton, Ashland, and Wolfeboro of 100 percent, so if your current bill is \$150 a month it will then become \$300 a month. This would have a devastating impact on the economy of all of those towns that are effected by the cop and the three municipal, electric companies. Ferc has granted an initial approval for this, but they have also said that they are going to reconsider it over the next several weeks, I believe it is. And this resolution puts us on record as being opposed to the increase.

### First and Second Referral

**SCR 2**, urging the Federal Energy Regulatory Commission to deny a rate increase for Public Service Company of New Hampshire.

Adopted.

Ordered To Third Reading.

### ANNOUNCEMENTS

#### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, February 12, 1991.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage

**SB 15**, an act relative to special identification of legislation that amends existing revenue statutes which send all or part of certain revenues to subdivisions of the state.

**SB 19**, an act establishing penalties and fines for use of blue lights by any person other than a certified police officer.

**SB 22**, an act relative to changes in reimbursement requirements for psychologists.

**SB 25**, relative to obtaining out of state driving records.

**SB 40**, an act making the pink lady's slipper the state wildflower.

**SB 47**, an act relative to emergency response personnel.

**SB 49**, relative to alternate zoning board of adjustment members.

**SB 118-FN**, an act relative to the department of revenue administration.

**SB 119-FN**, an act relative to the business profits tax, the real estate transfer tax, and the communications services tax.

**SCR 2**, urging the Federal Energy Regulatory Commission to deny a rate increase for Public Service Company of New Hampshire.

**HCR 4**, supporting the U.S. troops in the Persian Gulf.

Senator Delahunty moved to adjourn.

Adopted.

Adjournment.

*February 12, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Lord, we remember before you this day, the men and women in the Persian Gulf War. Help them and keep them safe! As we celebrate Abraham Lincoln's day and the war of the rebellion who said "With malice toward none and justice for all. That the government of the people, by the people, and for the people, shall not perish, from the earth". N'uff - said.*

*Amen.*

Senator Hough led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### RESOLUTION

Senator Delahunty offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 8 and 229 shall be by this resolu-

tion read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

### **First and Second Reading and Referral**

**SB 8-FN**, terminating the New Hampshire Higher Educational and Health Facilities Authority and transferring its duties, powers and responsibilities to the New Hampshire housing finance authority. (Podles of Dist. 16 - Banks)

**SB 9-FN**, relative to a study of interactions between the mental health and criminal justice systems. (Dupont of Dist. 6 - Judiciary)

**SB 229**, relative to a Martin Luther King Human Rights Day. (W. King of Dist. 2; Hough of Dist. 5; J. King of Dist. 18; McLane of Dist. 15; Cohen of Dist. 24; Arnesen of Grafton Dist. 7; Bell of Rockingham Dist. 26; Cote of Hillsborough Dist. 25; Johnson of Hillsborough Dist. 37; Pignatelli of Hillsborough Dist. 37 - To Public Affairs)

Adopted.

### **HOUSE MESSAGE**

The House of Representatives has passed a Bill with the following title, in the passage of which it asks the concurrence of the Senate:

**HB 51-FN**, relative to the normal contribution rate for retirement system members and establishing a committee to study retirement system benefits and making an appropriation therefor.

Recess

Out of recess

### **RESOLUTION**

Senator Delahunty offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bill numbered 51 shall be by this resolution read a first and second time by the therein listed title, and referred to the therein designated committee.

### **First and Second Reading and Referral**

**HB 51**, relative to the normal contribution rate for retirement system members and establishing a committee to study retirement system benefits and making an appropriation therefor. Insurance committee.

Adopted.



### MOTION TO VACATE

Senator McLane moved to **Vacate SB 228-FN-A**, relative to the treatment of New Hampshire trusts, from the Committee on Ways and Means to the Committee on Banks.

SENATOR MCLANE: This is really technically a business, an investment trust matter. It does not really have to do with taxation. It's not a resource bill and for that reason I have conferred with Senator Fraser and I think that it would be better if it were handled in the Banks committee.

Recess.

Out of recess.

SENATOR MCLANE: I apparently read the number 223, and it is 228. Excuse me.

Adopted.

### COMMITTEE REPORTS

**SB 17**, relative to disclosure of transaction charges for use of automated teller machines. Banks committee. Inexpedient To Legislate. Senator McLane for the committee.

SENATOR MCLANE: The members of the Banks committee decided that the Banks had enough grief without having to re-program all of their automated teller machines to tell people something that they already know. At a time when one receives an automatic teller card you are told how that card will work and if there are any fees that will be imposed. That is regulation E which says that the fee must be disclosed. So, if someone doesn't know that and uses the machine, they will then see on their monthly statement that a fee has been imposed. But the mere fact that people should know it anyway and the fact that it is not worth re-programing all these machines in order to give that information. We decided that although it was a worthy bill put in by a Senator for her constituent that it was not practical at this time.

Committee Report Adopted.

Senator Roberge opposed to committee report on SB 17.

**SB 64-A**, relative to the superior courthouse in Nashua and making an appropriation therefor. Capital Budget committee. Ought To Pass With Amendment. Senator Hough for the committee.

SENATOR HOUGH: The committee on Capital Budget heard SB 64-A, and had an exhaustive public hearing, went into an executive session and voted to report this on the floor of the Senate as ought to pass with amendment. The amendment which is in your calendar

uses the last best available numbers for the bond authorization relative to the furnishing and salary fittings of the Nashua Court House. Those of you that have been in this body or in the House in the past know that we have purchased land and constructed and are amortizing a building in Nashua which will be a Hillsborough county court house. This building has set vacant and unused. It clearly makes no sense at all when you hear Chief Justice Dunfey indicate that there are 20,000 legal matters backed up in Hillsborough county. The building is ours, it is complete. We are having to secure the building, keep the heat on, plow the roads, maintain security. It is absolutely foolish for us not to go forward and occupy this court house and provide the people of Hillsborough county of a needed public service. The committee on Capital Budget is unanimous in its support of this legislation as amended. The amendment, the correct dollars as I indicated there were provided by administration and control and verified by the Legislative Budget Assistant's office and this building should be, this bill should be passed and sent immediately to the House and we should have this building up and on going post haste.

SENATOR ST. JEAN: Ralph, the million two that is in the amendment, could you give us a break down of where these monies are going? How much is going for instance, furnishings and everything else?

SENATOR HOUGH: The figures that have been provided for us would indicate that based on the most recent state bid the furnishings would be \$590,000, security system which if my memory serves me correct the bids are in on and it is ready to be awarded is \$200,000. The computer system, \$240,000 and miscellaneous office equipment and machineries \$170,000. For an authorization for short-term borrowing for five years at a million two, down from a million one, excuse me a million four.

SENATOR ST. JEAN: The furnishing for \$590,000 to speak of, Senator. Are those, are we going to go out and purchase new furniture or are we going to be able to find some good used furniture within the system in order to satisfy the judges?

SENATOR HOUGH: The answer, Senator St. Jean, that the administration and control have gone over the specifications for furnishings and this will be the acquisition under the short term borrowing of the necessary furnishings to place this building in an operating mode and it will be new furnishings written off in a five year period.

SENATOR ST. JEAN: We're not going to have any used furniture within the new Court House? It's all going to be new furnishings?



SENATOR HOUGH: The authorization of \$590,000 is for the purchase under the state bid of furnishing to equip the Nashua Court House.

SENATOR ST. JEAN: Thank you, Senator.

SENATOR HUMPHREY: Not detected to the merits, but rather the procedure. Are there any constraints on the, any limit to the total amount of bonded indebtedness or debt service or anything? I mean are we able just to pile bonds on after bonds or what is the situation?

SENATOR HOUGH: Senator Humphrey, as you realize the debt service of the state of New Hampshire is carried in section 1 of the operating budget. It's a statutory obligation. The furnishing of the Nashua Court House has been before us in the past. It is vitally important that we get this building that we have constructed and are presently amortizing up and running. The authorization for the appointment will be handled with short term bonds of five years and it will be included after the bonds are let in the debt service to the up coming biennium.

SENATOR HUMPHREY: As I said, my concern is not with the merits of this bill nor with the merits of another bill from the Transportation committee that would appropriate funds that are to be raised through bonds, but rather the procedure. I'm simply asking the Senator or any Senator who can answer. Is there some cap on the total amount of bonded indebtedness in though which we must remain or are we actually at liberty to pile on as much bonded debt that we think proper?

SENATOR HOUGH: The debt service for bonded indebtedness will be a determined factor in the waiting days of this session that will be considered at the conference on appropriation, line item as struck in the final resolve. We have schedules of present debt service, the items that are being retired and we have taken this initial piece of authorization into consideration. This clearly is a priority. I would also indicate, Senator Humphrey, that you will see the identical language in two other pieces of legislation. One of them is on the House side, another in the possession of the Senate. This is clearly as you indicated a meritorious piece of legislation, it is not in dispute. It attempts to put in a position, a building that we have constructed and are paying and sits idle in Nashua where there is a great need in the court system to operate this building and I might also say that our investments are being attacked with vandalism and deterioration this very day.



SENATOR HUMPHREY: Again, I do not question the merits. I am simply asking is there a cap on bonded indebtedness? I am trying to establish that point.

SENATOR HOUGH: There is a statutory cap on bonded indebtedness. It is a resolution that is arrived at with the best judgement of the wisdom of the House and Senate in final conference.

SENATOR HUMPHREY: Does anyone know what is the total bonded indebtedness of the state today?

SENATOR NELSON: I don't have that exact figure, but I have sent someone down to get it. I know what we have done recently is looked at the last ten years of the bonded indebtedness and it's ranged anywhere from \$40,000,000 to \$75,000,000 I think, \$70,000,000 in the last couple of years. But as soon as that report comes back up I would be happy to give you that, Senator Humphrey. But we are in the process of compiling some numbers on that. But it's been my understanding that four years on the Capital Budget that, excuse the expression, but in the good years sort of speak, when things were economically well, we spent as high as \$70,000,000. When things were in more difficult times we have gone \$40,000,000. So, I have asked LBA to take a look at it since the early eighties and see, actually 1979. Just to see what we have done with that and I would be very happy to provide you with all that information when it comes up here.

SENATOR HUMPHREY: I'm not sure that I understood the response. Is the response that in good times we have paid down the indebtedness or has it steadily grown?

SENATOR NELSON: Thank you for the opportunity to re-answer the question. I believe your question was originally is there a cap on it. What I'm suggesting to you is that, depending upon the economic situation if the state seems to be in good shape from what I am learning, the bonded indebtedness has been as high as \$70,000,000. When the economic times seem or to have change we have peered down to \$40,000,000. I don't know if I have answered your question. In other words, we have spent less money and sort of capped it in. Talking with the Senate President, and the House, and looking at all our bills we have capped it, if you will, and said we shouldn't go over this much, depending on the situation. But as soon as the facts come up I'll give you the figures. I don't know if I'm answering them.

SENATOR DELAHUNTY: Senator, I don't think the answer to your question is any tax on any bonding figure. I think the answer is that the bond ratings and the financial institutions register every year and the more that we go into debt the lower our credit gets and

the worst it gets. And we come to the point where people aren't doing anything and the credit goes down and we aren't able to borrow the funds anymore. That was a simple answer to your question.

PRESIDENT DUPONT: Senator Humphrey, does that answer your question?

SENATOR HUMPHREY: Almost. I'm still not clear. Have there been times in recent years, within the last ten years when our indebtedness has, actually funded indebtedness, has actually gone down?

PRESIDENT DUPONT: Excuse me Senator, if I could respond. During the past few years we have retired certain obligations in the state of New Hampshire. We have refinanced certain obligations to take advantage of lower interest rates. As Senator Nelson indicated, we will have a schedule that we can prepare for you and you can certainly take a look at that if you would like to do further analysis of it, as well as our legislative Budget Assistant's Office, who works on those issues for the Legislature. I'm sure they would brief you on the vagaries of that whole process.

SENATOR HUMPHREY: The Chair has said that we have paid down some debts and refinanced others, but on a net basis, that is what I am trying to establish. On a net basis has there been a pay down in the state's bonded indebtedness in the last decade?

PRESIDENT DUPONT: Senator, I would assume that the answer to that is no, given the amount of construction that's going on in the state relative to prison facilities, mental health facilities, state hospitals. Quite frankly, there has been a fairly ambitious capital expenditure program in place, so the answer to that probably is no.

SENATOR BLAISDELL: Senator Delahunt, don't we still have the highest bond rating in the country as far as my knowledge. Am I right, Senator?

SENATOR DELAHUNTY: I think we have the highest quantity of bills, I'm not sure it's the highest in the country.

SENATOR BLAISDELL: It is the highest in the country.

SENATOR HEATH: Senator Nelson you talked with a range about \$40,000,000 to \$70,000,000. I was wondering if that's the annual addition to the accumulative one. What is the total accumulative bonded indebtedness?

SENATOR NELSON: I don't have that book with me, but I will get it. And thank you for giving me the opportunity to clarify that. When I heard the word cap, I was responding to the fact that from



time to time we cap the amount of money we do want. Thanks for the opportunity. No, they are going to bring it up to me. They're going to bring it up for us so that I can show Senator Humphrey.

SENATOR HEATH: But those figures are an annualize increment?

SENATOR NELSON: That's right, and there is a book printed that tells you every detail and will give us that exact detail. It will give us that exact figure in just a moment in time. It's on my desk and as soon as it gets here I'll show it to you. Thanks for an opportunity for letting me clear that. I was thinking of cap on how much we spend each year. Excuse me, Senator Humphrey. Oh, and I just wanted to say Senator, that there is no statutory, there's nothing in statute that says we have to cap it. I just want to be clear on that one thing anyway.

SENATOR HUMPHREY: I would just lastly say Mr. President, it's awfully easy to lay on debt when we want to enjoy something today at the expense of our children of tomorrow. Perhaps we might consider in the future some kind of cap, arrive at some kind of consensus about what is appropriate in terms of total indebtedness or conversely annual debt service. Apparently, the procedure now is that we just slap on more debt whenever we feel it's appropriate without regard to any outside limit, except that of the rating agency, of course.

SENATOR MCLANE: Senator Humphrey, it seems to me that you are talking only about money as a consideration here. I wonder if you would think about putting on a cap on the number of years it takes someone to get a law case through the courts because the lack of space.

SENATOR HUMPHREY: I'm not arguing against the merits, may I say, of this bill. I am just curious about the procedure because there is at least one other bill here that involves several million dollars in further bonding debt. And I just wondered if there is some structure which guides us or if we just sort of do it whenever we want to do it.

SENATOR NELSON: I will attempt to say this to all of you so that you will understand this and you bear with me and I will try to be as articulate as I can and not flub up when I say bonded indebtedness as opposed to bonding. As you know, I am a new Chairman to Capital Budget. It is a new session and there are many new members on the committee. No one holds the corner of the market in this state wanting to see our cost kept low. We're all trying to achieve that purpose. So, let me tell you how it's working in Capital Budget. What's happening is that LBA is preparing a history of the capital



projects and how we have spent over the years. They are giving us information on the total bonded indebtedness. We are looking at every bill coming through, both in the Capital Budget and in Transportation. We are waiting for the Governor's budget to come through on Capital projects before we make a decision so that we can have the whole picture. As you know there will be projects coming out of Public Works. There will be the Senate President, the committee on Capital Budget, the Governor, and the House Speaker and his committee looking at these projects. When we have everything in front of us, we will then determine, we will determine, not by statute, but this body and the House body will decide the limit. So, until we have all the facts in front of us, it's impossible for us today to give you a specific figure. I will be more cautious in the future to bring all those books out here and as a matter of fact we can try to provide every member of the Senate with a book, giving you all the information about the bonded indebtedness of the state so that you can all have that at your fingertips. The person with whom you could speak if you have a specific question regarding any capital project is Mr. Jeff Pattison or Mr. Charles Connor in the LBA. So please rest assured that the reason that you have not seen many bills on the Senate floor from Capital Budget is specifically for this reason, that we do not in fact want to throw the state over the edge in terms of bonding issue and bonded indebtedness. I'll get these words better as I go along. No, on a serious note though, seriously, as you know I have met with the Senate President. We have printouts. We are looking at everything and let me make it clear as far as Transportation, Senator Oleson and I have talked. He is aware of the fact that everything is coming through the Capital Budget so that we have one location to look at everything. And to have a firm, secure handle on the kind of money that we are spending or not going to spend. Thank you Mr. President, and thank you members.

PRESIDENT DUPONT: Thank you Senator Nelson, and the chair appreciates how hard you are working.

### **Amendment to SB 64-A**

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation; Department of Administrative Services. The sum of \$1,200,000 is appropriated to the department of administrative services for the fiscal year ending June 30, 1991, for furnishings and a security system for the superior courthouse in Nashua. This appropriation shall not lapse until June 30, 1992.

2 Bonds Authorized. To provide funds for the appropriation made in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,200,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. The bonds shall be 5 year bonds.

3 Principal and Interest. Payments of principal and interest of the bonds and notes issued for the purposes of section 1 shall be made from the general fund of the state.

4 Effective Date. This act shall take effect upon its passage.

Amendment Adopted.

Ordered To Third Reading.

**SB 98-FN**, relative to a review of RSA 53-B, regional refuse disposal districts. Environment committee. Inexpedient To Legislate. Senator Fraser for the committee.

SENATOR FRASER: The Environmental committee heard this bill and nobody appeared either for the bill or against it. With the support of the sponsor of the bill who was also my chair, we determined to report the bill to the full Senate as Inexpedient To Legislate.

Committee Report Adopted.

**SB 136-FN**, authorizing water users registered and reporting their use to the division of water resources, department of environmental services, to continue such use. Environment committee. Inexpedient To Legislate. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: Yes, the committee heard this bill and was aware that there is a similiar bill coming through from the House that we would rather work with and therefore we will be working with the House committee on this issue and we moved this bill as Inexpedient.

Committee Report Adopted.

## RESOLUTION

### Memorializing William L. Dunfey

WHEREAS, a resolution is a means whereby the Senate of the state of New Hampshire may honor and memorialize those individuals who have made significant contributions to the Granite State, and

WHEREAS, it is with great sorrow that the Senate recognizes the passing of William L. Dunfey of Rye, New Hampshire, and

WHEREAS, Mr. Dunfey, who after serving in the United States Marine Corps from 1943-1946, went on to attend the University of New Hampshire where his interest in politics was born, and

WHEREAS, throughout his life he was an active participant in state and national politics, founding the New Hampshire Young Democrats in 1952 and serving as chairman of the New Hampshire Democratic Party during the 1960's, and

WHEREAS, he was often called upon by members of the Democratic Party to assist them in their election efforts, coordinating John F. Kennedy's Presidential Campaign in New England and playing major roles in the elections of Senator Thomas McIntyre and Governor John King, and

WHEREAS, he was also founder and director of The Spectator, director of Mediators Productions, Inc, and has served as director for the New Hampshire Times and WorldPaper and the Center for Constructive Change, as well serving as a director or trustee for numerous organizations, including the New Hampshire Library Commission, The University of New Hampshire and the Dartmouth Medical School Board of Overseers, and

WHEREAS, he was presented with the Charles Holmes Pettee Award by the University of New Hampshire in 1989 which recognizes those who have made outstanding accomplishments and served with distinction the state, the nation or the world, and

WHEREAS, he was appointed an Alternate Representative to the 34th session of the United Nations in 1979 by then President Jimmy Carter, and

WHEREAS, he will be missed by all of those who came to him as an individual who had a deep love for his state and the principles of a democratic society,

NOW THEREFOR BE IT RESOLVED, that the Senate of the state of New Hampshire wishes to memorialize William L. Dunfey for his many contributions to the state of New Hampshire and our country.

Signed by Edward Dupont, Jr., President; Senators W. King, Blaisdell, St. Jean, Disnard, Shaheen, Pressly, Hollingworth, Nelson, Ole-son, J. King and Cohen.

PRESIDENT DUPONT: Thank you, Senator Disnard. Our sympathies are obviously extended by this body to the Dunfey family.



### COMMITTEE REPORTS

**SB 149-FN-A**, relative to reimbursing a certain school cooperative for certain expenses and making an appropriation therefor. Finance committee. Ought To Pass. Senator Hough for the committee.

**SENATOR HOUGH:** The committee on Finance recommends that SB 149-FN-A be reported ought to pass. This bill appropriates \$5,030 to the Hollis - Brookline cooperative school district for expenses occurred in their area plan where they moved their school district into a cooperative district. The law has been on the books for the last twenty years. This is the first time that an expense has been established and this appropriation pursuant to the law codifies in the RSA an appropriation to pay them back. It's a good bill.

Adopted.

Ordered To Third Reading.

**SB 203-FN**, relative to the budget of the university system. Finance committee. Inexpedient To Legislate. Senator Hough for the committee.

**SENATOR HOUGH:** The committee on Finance held a public hearing on SB 203-FN, sponsored by Senator St. Jean, relative to the budget of the university system. After a long and exhausting public hearing wherein the committee revisited the policy of the state of New Hampshire relative to its public university system and in appreciation of Senator St. Jean's sincere attempt to foster public awareness and support of our university system. Concluded that the strength of our university system lies in the public policy charge as established by this legislature in the past, allowing the trustees to have the governance of this recognized national university system outside of direct interference, if you will, by a legislative body. We took the concerns of Senator St. Jean, and very seriously, we understand the uniqueness of our university system as it exists and in comparison to how other university systems relate to their legislatures. And it was the unanimous conclusion of the committee on Finance to affirm and be recognized in established excellence of that which we have in place, and while we only subsidize our university we call on the support of all Senators to continue to fight for that day when we accurately support our university system. Therefore, the committee on Finance, in appreciation of the opportunity to revisit and establish policy position, recommends that this piece of legislation be reported Inexpedient to Legislate.

**SENATOR COLANTUONO:** Senator St. Jean, I would like to ask the Senator sponsoring this bill what his purpose was for sponsoring this bill? If you could explain it briefly?

SENATOR ST. JEAN: Yes, my purpose, Senator, was to give Finance a better handle on what was going on within the university system. To give them a tool to fare out the waste and inefficiencies within the university system budget. As you know right now, it's a one line item budget. The university system does give us a break out, what they call a series which gives us the numbers or the background data which they spend their money. But if for instance, you thought there was some waste and inefficiencies over there and you found that area, you could not effect the budget, the only way would be to give them their bottom line less whatever you thought the inefficiencies were, Senator. So there's no way of knowing if they would in fact make the cuts that you wanted to have made within their budget.

SENATOR COLANTUONO: Could you tell me how long this budget in process has been going on for the university system? Forever.

SENATOR ST. JEAN: Since it's existence, to the best of my knowledge.

SENATOR COLANTUONO: Could the Senator tell me if the university system is the only body that has this budgeting system?

SENATOR ST. JEAN: To the best of my knowledge, every other department and agency, Senator, has a line item budget that the members of Senate Finance and those of us who are on the floor today can effect. A line item with the university system we can not.

SENATOR COLANTUONO: Senator Hough, could you explain the committee's feeling as to what is wrong with requiring the university system to follow the same budgeting process as all the others?

SENATOR HOUGH: Oh, absolutely. I think it's been clearly established as public policy in this state. Unlike other states their treatment of the university where we invest the governess of the university system in the board of trustees. They are the board of directors that meet with and in consultation with the administration and their track record in history since the 1920's when this legislature established the university has not only been exemplary, but the recognized excellence of our university system is unquestioned throughout the nation. It works to the benefit of the young people of the state of New Hampshire. It is consistent public policy and we are reaffirmed excellence by our committee report.

SENATOR OLESON: I rise in support of the committee decision of Inexpedient to Legislate. And one of the reasons why I do so, I had the occasion some years ago to attend a national conference on water



out in Albuquerque. The keynote speaker at that time was Governor Salmon of Vermont and one of the reasons of the committee was, and the conference for us, to pay more attention maybe to our university system as well as we possibly could. One of the comments that were made at this conference was: he said, out in the west and in the midwest and the northern midwest we produce the football teams, but in the east, the university of New Hampshire, Colby and Bates were producing the people. The educated people who are keeping our society on an even keel. I have an old saying "If it's running well, don't tinker". I say today, do not tinker with our university system. Thank you.

### SUBSTITUTE MOTION

Senator St. Jean moved to Substitute Ought To Pass for Inexpedient To Legislate.

SENATOR ST. JEAN: Members of the Senate, and Senator Colantuono, I do want to say some things that you should perhaps listen to in regard to this. What I consider to be a straightforward piece of legislation. I attended the University of New Hampshire, never graduated, much like the Senate President. And I am not anti-education, but I do think that this piece of legislation is needed, especially at this juncture within our history. We, as you know, cut 213 people from state government. We are going to cut to the bone, programs effecting the elderly, senior citizens and a whole range of other programs. And if we are going to do that I think that we need to be fair across the board. Senator Hough eluded to what a good job the university system is doing. Well I think we need to look at the Chancellor's office for \$5.6 million that we send over there. Well in the past five years the Chancellor's office, the staff has gone up by 105 percent, the professional staff has gone up. Facility increases 7.9 percent while the students have only gone up 10.6 percent. To me, if that went on in any other department or agency I don't think anybody would have let that go on. And worst of all, the salaries have gone up to the tune in the past five years of 40 percent. Now I'm not talking your average run of the mill salaries, Senators. What I am talking about: the Chancellor has gone up 46.6 percent; Kasper Marking in 1986 was making \$77,000; Clair Van Ummersen now makes \$120,000 plus the selections off the executive menus which give her a car, a housing allowance and various other things that take that salary perhaps to \$150,000 a year. That's good work if you can get it. They have a lobbyist over there that makes \$88,000 a year. The last lobbyist I knew that ran around this place is over in Health and Welfare and he spent a little bit too much time over in the legislature and he found himself without a job. The lobbyist that they



have makes more than the Governor of the state of New Hampshire. The Governor has a salary of a little more than \$70,000. The Vice Chancellor of Financial Affairs whose salary has gone up 44 percent makes \$93,500. The Director of Academic Planning and Program Development upped 53 percent to \$67,900. The Vice Chancellor of planning and budget upped 72 percent to \$74,900. I could go on. If you tell me there isn't duplication and waste if you go through the flow chart that they give to us, I'll tell you your wrong. I think at the very least that we should look at this. That's why we have filed this piece of legislation. And I know where the votes are, there much like some years ago when I stood up in this chamber along with former Senator Chandler and I said at the time that \$20,000,000 that we are going to give to the land trust is wrong. In looking back at that I think some of you would come to agree, those that were here then, would say well, St. Jean, you may have been right then, we should have only given them \$5,000,000 or \$10,000,000, but we gave them \$20,000,000 now. And I'll tell you in the spring when this budget comes out and you cut it to the bone and you're going to look for areas where we are going to make some more cuts, this is a tool that's needed. It's not an anti-education piece of legislation. The trustees, everyone says that is some sort of sacred area over there. Lets not kid ourselves, they have to go through the Governor and the council, so that there part of the political process. There's taxpayers dollars being spent over there and if we're going to be fair across the board, and we're going to make these gut wrenching cuts, I think that we should begin to take a look at the university system and I think that that is right and that it should be done immediately.

SENATOR HEATH: I didn't intend to speak on this, but the more I look at it the more absolutely insane it looks to me that we don't pass this piece of legislation. Senator Hough said the strength of the system is put in the public policy charge that we give to the trustees. This is public policy, he admits it. But we don't get a chance to look at it. The public doesn't get a look at this. He says he's going to fight for the day when we more actively support the university system. Why would anybody in this body want to more actively support something that is like a bank that you put it in and that's the last that you see it. You don't know where it went or what it is used for. This could lead to support for the university system or it could lead to some changes. Senator Oleson says if it's running well don't tinker with it. Well, how the hell do you know if it's running well if you can't look under the hood to see whether the engine is in there. I don't think it's running well. I can't in conscience, go to the parents of students of the university system in my district and when they accuse me of not being supportive of the university system of com-

plaining about the tuition, resist telling them about the goodies and the benefits for some of the heavy hierarchy down there. I think this would be an enlightenment and isn't that what the university system is all about is enlightenment, truth, exposure to the first amendment, you know let the sun shine in. If we're going to write blank checks, then we can not go back to our constituents, it seems to me, and tax them anymore this session or any other session if we say look we don't mind reaching in your pocket, but we're not even going to look in their check book, we just give them the money, and that's what we are doing so far. It just seems to me that it's insane not to open up that book and take a look. That's a state activity, it's a state finance thing and it affects all of our children. They pass on tuition, let's see if they can lower tuition or hold the line on tuition through some internal cuts before we throw anymore money down that blind alley. And I would urge you all to consider what you're going to tell your constituents when you start hearing complaints about the tuition level if you're not willing to say we at least will look at those line items and see what is going on. Thank you.

SENATOR BLAISDELL: Senator Heath did you read where there is a new report out that says for every dollar invested in the university system that New Hampshire gets about \$3 back, did you take a look at that?

SENATOR HEATH: Did I see it?

SENATOR BLAISDELL: Yes.

SENATOR HEATH: I've seen such figures before probably produced at the university.

SENATOR BLAISDELL: The second thing I would like to ask is have you ever seen any of the reports that are given to us in Finance, LBA's office, the House appropriations, House Ways and Means just high on the university system of how the money is spent. Have you ever seen those reports?

SENATOR HEATH: No.

SENATOR BLAISDELL: Are they available to you as a Senator?

SENATOR HEATH: If they are, this is the first of my knowledge of it.

SENATOR BLAISDELL: This is the first time you've heard that there are reports this high on the university system in this state?

SENATOR HEATH: Senator, to totally answer your question, I don't measure the strength of reports on the value of them by their height.



SENATOR BLAISDELL: Well, alright, I have just one more question. Would you agree with me that Senator Hough, Senator McLane, and I were stupid when we supported and put in the bill for the land trust to have an asset that we can now bond \$20,000,000 to pay off last years bills. Were we stupid?

SENATOR HEATH: If I read you right.

SENATOR BLAISDELL: Well you're consistent.

SENATOR HEATH: Thank you.

SENATOR HOUGH: Just so I am correct procedurally, I have yet to speak, I did offer the committee report on behalf of the committee.

SENATOR DUPONT: I stand corrected.

SENATOR HOUGH: Mr. Chairman, if I could rise to speak against the St. Jean substitute of ought to pass for the committee report. I would tell you briefly that the committee report is of a lower order than the St. Jean substitute and it is a negative motion and therefor it is not subject to future amendments. So, if you were to entertain the St. Jean substitute you would then be in a position to take who knows what other further action. I think this piece of legislation is very clear in its intent. I have nothing but the highest respect for my friend and colleague, Senator St. Jean. He will recall that when the subject of the land trust came up, although he was concerned about other social issues, about housing in his district, that the wisdom of this body and of our colleagues on the other side of the wall demonstrated the errors of his ways and we were able to take advantage of a unique opportunity. We seized the initiative, we prudently committed then available resources for protecting a sacred piece of our environment that, as Senator Blaisdell would have you believe now, had we done otherwise we would not be able to use this as the asset for which it is. And Senator St. Jean will come around to that point in the days to come because he is always a person who is committed to doing the right thing. Aside from that, you want to vote against the St. Jean substitute because clearly that is a diversionary parliamentary move. You want to address the question of this piece of legislation as the committee reports it inexpedient. That's the vote you want to vote on and I would tell you, Senator Heath, I am somewhat concerned that a person of your committment to insight would tell me that you have not availed yourself of the annual audited statement of the university because copies are awash in this State House on a quarterly basis. As a result of what I can consider, and have accused the then Governor Sununu with direct interference, we get statements of revenue and appropriation by line at the university. There are committees of this body and of the other body that meet



year round, both with the administration and with the trustees and meet with the students on the various campuses. This legislature, its policy committees, its money committees, and members that represent the body as a whole are fully cosignatory of the expenditures and the revenues at our university, but campus by line. We recognize the impact of in-state tuition on New Hampshire citizens, the best and the brightest of our population. We failed to marshall our resources to give them an opportunity which they would otherwise enjoy were they residents of neighboring states. We understand the sources of revenue and we clearly understand that we have not maintained our commitment, where in 1972 when I arrived in Concord, we were paying 42 percent I believe, of the total university budget and watched this shrink to a paltry 30 percent, 32 percent. I stand corrected, 32 percent of the budget of the university system. Through sources other than a state subsidy, we must assess the highest tuition rates in-state and out-of-state and in all states of the union. We must rely on grants alumni support and a merit of other sources of support so that we can maintain the university system as we know it. There is only one responsible vote that you can cast at the present time, you must vote no on the St. Jean substitute and with its defeat you should affirm the committees report of Inexpedient to Legislate so that we can continue to have a university system that is recognized for its excellence.

SENATOR HOUGH: Now you will make the distinction that I am not, Senator Heath, Mr. President. Because I was accused of being Senator Heath two years ago and the wrath of God laid upon my shoulders and only he could save me.

SENATOR HEATH: He got me more publicity than the NCA news, more than I have ever recieved before or since, so it worked out for both of us. Senator, do you assume that an affirmative vote on this is somehow contorted as to be a vote against education, a vote against support of our university system? A vote against intellectual endeavors? I mean, I kind of hear that in the way that you're speaking and I wondered if that was what you thought?

SENATOR HOUGH: Senator Heath, so that there be no misunderstanding I assume nothing. I simply state that you should defeat the St. Jean substitute and vote for the committee report of Inexpedient to Legislate. To assume nothing, but to affirm excellence.

SENATOR HEATH: Senator Hough, you suggest that we assume nothing and that's all that this vote is really about, isn't it? That we don't assume, that we verify?

SENATOR HOUGH: Senator Heath, least I be corrected. I think my response to your prior question was that I assume nothing. We, I'm not so sure of.

SENATOR COLANTUONO: Senator Hough, with reference to the thick reports that you and Senator Blaisdell talked about which the university system sends over to us after the fact, to tell us how they spent the money. If they do it after the fact, my question is what's wrong with making them do it before the fact, during the budgeting process? So that we know ahead of time where the money is going to be spent?

SENATOR HOUGH: Let me refer you to the report commissioned by the board of trustees within the last year: the Bourgeois report. There was concern and questions both within the body of the trustees and within the administration, student bodies, and facilities at the individual campuses relative to the Chancellor's office, relative to communication between the Chancellery and the board of trustees and the individual campuses. The concern as it become apparent lead the trustees to the conclusion that it was time to do some soul searching and fact-finding, if you will. The Bourgeois report was addressed to this legislature, to members specifically of this legislature and was released to the public. The conclusions in finding were that the board of trustees had been lax in their communication with the various campuses in their constituencies. The conclusion of the trustees commissioned report was not only specifically critical, but directed the trustees and the office of the chancellery to move forward in a more cooperative mode. I invite you, Senator, if you have not done so, read the report and you will see that we run a more efficient central university office in this state then we do in counterpart states. I invite you to look at the state of Connecticut where Governor Weicker is now moving away from a line item budget and suggesting that there will be the establishment of more economy in the trustees of the university system. I invite you to look at the experience in the commonwealth of Massachusetts. We, on this Senate floor repeatedly indicate how we are superior to our friends to the south. There is no question in my mind of our treatment of public education in this state. It is vastly superior to the interference that you see in the commonwealth. Again, I would answer your question in the fashion and in the spirit in which you have asked it. The trustees of the university have a strong track record of excellence and it serves us far better to allow our legislature, its policy committee, and its money committee to continue with a tradition that has established, recognized excellence, than to try to go in a direction that other states are abandoning.



SENATOR BASS: Senator Hough, Senator St. Jean, in the beginning of his talk made certain allegations about the salary structures in the university system and said that they rose dramatically, and perhaps out of far more disproportionately to similiar positions of qualifications and so forth in state government, and I was wondering, now with reference to the Chancellors Office in the top level management in the university system. How do you write that with the fact that the state is doing everything that it can right now to cut costs, to keep salary increases in line and in every other branch of government, to exercise a certain amount of fiscal responsibility.

SENATOR HOUGH: Senator Bass, I refer you to the Bourgeois report which is commissioned by the trustees that would indicate that the cost of operation, and the salary structure for the office of the chancellor is consistent and in, fact, is less in every aspect to the counterparts in other states.

SENATOR ST. JEAN: Senator Bass, would you believe that I have a copy in my hand of this report of the trustee committee on cost effectiveness. Senator Colantuono, you can read this, I already have. Would you believe Senator, that they found that there were no problems of course within the university system because they used university staff and university data to do this whole study. Would believe Senator, when they found that there was no duplication of effort over there within the university system, could you tell me Senator, why the system would need a Vice Chancellor for budget planning, a Vice Chancellor for financial affairs, a manager of cash investments, a Director of Capital Planning and Development, and a Director of Audit, while the University has a Vice President for Financial Affairs, a Director for Campus Planning, and a division for General Accounting in budgets. All of whom make in excess of \$75,000 a year.

SENATOR BASS: No, Senator St. Jean, I can't answer that question. That was specifically the question that I was addressing to Senator Hough.

SENATOR SHAHEEN: With all due respect to my honorable colleague on the right. See after you have been here awhile you start to talk that way. And recognizing that the intent of this legislation is obviously a concern for limiting state spending and for requiring all departments to respond in the same way. I would submit that in fact the University is not in the same position as other state departments and what we would be doing by passing Senator St. Jean's motion, would be to put a line item veto into the University budget which would give the legislature the power to decide what programs we might like and which ones we might not like, which would have



the effect of limiting academic freedom at the University. Our sister state Massachusetts has gone down this road with its University system and I'm sure that none of us would like to emulate Massachusetts in this area. The effect has been disastrous. So I would urge everyone to vote against Senator St. Jean's motion.

Substitute motion of Ought To Pass Fails.

Roll call requested on committee report of Inexpedient To Legislate.

A Roll Call was requested by Senator Hough.

Seconded by Senator J. King

The following Senators voted yes: Oleson, W. King, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, McLane, Podles, J. King, Russman, Shaheen, Delahunty, Hollingworth, Cohen.

The following voted no: Heath, Colantuono, Humphrey, St. Jean.

Yeas: 20

Nays: 4

Committee report of Inexpedient To Legislate is Adopted.

**SB 23-FN**, relative to juvenile delinquents on conditional release. Judiciary committee. Inexpedient To Legislate. Senator Podles for the committee.

**SENATOR PODLES:** Mr. President SB 23, permits district court to maintain jurisdiction over an adjudicated delinquent until he reaches 21 years of age. The intent of the bill is well founded; however, there are approximately 300 of these 17 year old offenders who probably fit into this bill and currently all of their ancillary services are paid for by settlement cost. When they become eighteen under this bill, the Department of Corrections kicks in for the continued cost. Testimony indicated that there would be serious financial and resource implications. Children 18 to 21 have different requirements. It's moving them to a punitive system and a more complex system. The committee recommends Inexpedient To Legislate.

Committee Report Adopted.

Senator Roberge opposed to committee report on SB 23.

**SB 34-FN**, requiring parental notification before abortions may be performed on unemancipated minors. Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the Majority. Inexpedient To Legislate. Senator Hollingworth for the Minority.

Recess.

Out of recess.

SENATOR COLANTUONO: Speaking on behalf of the committee majority, it's come to the attention to the members of the committee that there are some concerns among certain Senators about some of the language in an amendment to this piece of legislation. In order to try to solve that problem, I would make a motion to recommit this to the Judiciary committee.

### **Amendment to SB 34-FN**

Amend RSA 132:21, II as inserted by section 2 of the bill by replacing it with the following:

II. If such a pregnant minor elects not to allow the notification of one of her parents or guardian or conservator, any district or municipal court judge shall, upon petition, or motion, and after an appropriate hearing, authorize a physician to perform the abortion if the judge determines that the pregnant minor is mature and capable of giving informed consent to the proposed abortion. If the judge determines that the pregnant minor is not mature, or if the pregnant minor does not claim to be mature, the judge shall determine whether the performance of an abortion upon her without notification of her parents, guardian, or conservator would be in her best interests and shall authorize a physician to perform the abortion without such notification if the judge concludes that the pregnant minor's best interests would be served if the abortion were performed.

(a) Such a pregnant minor may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court appointed counsel, and shall, upon her request, provide her with such counsel.

(b) Proceedings in the court under this section shall be confidential and shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant minor. The district or municipal court judge who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a record of the evidence to be maintained including the judge's own findings and conclusions.

(c) An expedited confidential appeal to the New Hampshire supreme court shall be available to any such pregnant minor for whom the court denies an order authorizing an abortion without notification. An order authorizing an abortion without notification shall not be subject to appeal. No filing fees shall be required of any such pregnant minor at either the trial or the appellate level. Any



hearing before the supreme court of an appeal under this subparagraph shall be given priority on the court calendar.

Amend the bill by inserting after section 2 the following and re-numbering the original section 3 to read as 4.

3 Applicability. In the event that the states are again permitted to safeguard the lives of unborn infants as a result of the United States Supreme Court overruling the decisions announced on January 22, 1973, in cases of *Roe v. Wade*, 410 U.S. 113, and *Doe v. Bolton*, 410 U.S. 179, or an amendment to the United States Constitution overruling these decisions, the governor shall, upon his determination that such event has occurred, make a proclamation declaring said event to have happened and the date of such event, and the sections of this act shall be and are then repealed and RSA 585:12, 585:13, and 585:14 shall be in full force and effect on and after said date.

### AMENDED ANALYSIS

This bill prohibits any physician from performing an abortion on any unemancipated minor or incompetent female without giving 48 hours' written notice, in person or by certified mail, to a parent or guardian.

This bill provides a procedure for waiver of the notice requirement in certain circumstances. The minor may also petition a district or municipal court to have the notice requirement waived and is entitled to a court appointed attorney for the petition procedure and appeal of it.

A violation of these requirements constitutes a misdemeanor.

Senator Colantuono moved to recommit.

Adopted.

SB 34-FN, IS RECOMMITTED TO JUDICIARY.

SB 82, relative to powers of directors, officers, and trustees of health service corporations. Judiciary committee. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: Senate Bill 82, allows health service corporations either through contracts or their bylaws, limited exemption from penalties or liabilities to directors, officers or trustees. Blue Cross Blue Shield is currently the only health corporation in the state and is not a for profit corporation. This bill is consistent with the actions of the legislature over the past four years in providing limited liability to those people who are serving in volunteer positions and the committee recommends Ought To Pass.

Adopted.



Ordered To Third Reading.

**SB 96**, relative to adoption. Judiciary committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN:** Senate Bill 96, the committee voted that Ought To Pass. Basically, the problem with it now is that when the court has jurisdiction and the agency takes over and perhaps puts the child out of state with a family member, or what have you, out of state, that presents a problem. O.K. and this would resolve that, because obviously they are no longer within the jurisdiction of the state once they have been removed to a family outside that, and that is essentially the first paragraph in the analysis that would correct the problem that the agency now faces when those children are put beyond the jurisdiction of the court. And the second part of it requiring that they reside in the state six months preceding the filing, speaks for itself and the committee unanimously asks that the bill be adopted.

Adopted.

Ordered To Third Reading.

**SB 29-FN-A**, establishing a legislative ethics committee and making an appropriation therefor. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

**SENATOR BASS:** You may recall that this bill came up before the Senate in our last session. At that time I discussed the history of the bill, the reasons for it, what it would do. My colleagues, Senator Colantuono and Senator Russman approached me and asked me if I could have the bill recommitted because they had some questions. I am pleased to report that as a result of some very detailed and productive meetings that the three of us had, along with former Attorney General Steve Merrill, we have come up with some suggested changes most of which are technical, but they certainly improve the bill overall. I want to, at this time, express my gratitude to Senators Russman and Colantuono because many times when a bill is recommitted it is done so for purposes of delaying action on it. This was certainly not the case in this instance and the contribution that they have made has been significant. It has resulted in a significant improvement. I have also asked the Sergeant of Arms to distribute a floor amendment which makes minor technical changes to the amendment in the Senate calendar. Briefly, what the amendments do from the original version is, first of all, substitute the Attorney General or his designee for a bar association or a member of the bar. Secondly, it defines jurisdiction of the committee. Thirdly, it substitutes the term "probable cause finding" for "initial review," which

doesn't have any legal interpretation. It substitutes the "clear and convincing evidence" for "substantial credible evidence as a burden of proof". It requires that the guidelines that the committee comes up with be consistent with statute. It requires that the guidelines be subject to legislative review for three legislative days before they are put into effect. And it requires that the committee not conduct any investigations until the rules and guidelines are submitted and agreed to by the legislature. All of these changes are basically clarifying in nature. The bill is clear and understandable now and I want to urge the Senate to adopt the floor amendment, then the committee amendment and then the committee motion Ought to Pass as Amended. Thank you.

Adopted.

### **Amendment to SB 29-FN-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a legislative ethics committee.

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Legislative Ethics Committee Established. Amend RSA by inserting after chapter 14-A the following new chapter:

### **CHAPTER 14-B**

#### **LEGISLATIVE ETHICS COMMITTEE**

14-B:1 Definitions. In this chapter:

I. "Investigation" means a proceeding undertaken by the committee after a finding of probable cause based on sufficient credible evidence that a violation within the jurisdiction of the committee may have occurred.

II. "Jurisdiction of the committee" means those actions which allege a violation of law or rule or regulation and relate to the conduct of individuals in the performance of their duties as members, officers or employees of the legislature.

III. "Sworn complaint" means a statement of facts within the personal knowledge of the complainant alleging a violation of law or other rule or regulation of the legislature and relating to the conduct of individuals in the performance of their duties as members, officers or employees of the legislature. Each sworn complaint shall be signed and dated and contain the name and address of the complainant.

14-B:2 Committee Established; Membership.



I. There is hereby established a legislative ethics committee to develop standards for legislative ethics and resolve, through procedures established in this chapter, issues, questions or complaints involving legislators and legislative staff and officers. The committee shall have the power to investigate allegations of improper conduct as set forth in this chapter. The committee shall consist of the following members:

- (a) One house member, appointed by the speaker of the house.
- (b) One house member, who appointed by the house minority leader.
- (c) One public member, appointed by the speaker of the house.
- (d) One senator, appointed by the senate president.
- (e) One senator, appointed by the senate minority leader.
- (f) One public member, appointed by the senate president.
- (g) The attorney general or his designee, who shall be an attorney employed by the department of justice.

II. The first committee meeting shall be called within 60 days of the effective date of this chapter. The members shall elect a chairman at this meeting. The members shall serve for the biennium and shall not be removed from the committee for any reason except for good cause by unanimous vote of the remaining committee members. Members shall receive no compensation, except that all members shall receive mileage at the legislative rate.

14-B:3 Duties. The committee shall be authorized to:

I. Issue interpretative rulings explaining and clarifying any rule or regulation within the jurisdiction of the committee. The committee shall also render an advisory opinion, in writing within a reasonable time, in response to a written request by a member, concerning the application of any law, rule, or regulation within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion. Hearings held on a matter within the jurisdiction of the committee shall be conducted in executive session unless the respondent elects otherwise. The committee shall issue an opinion in a timely manner.

II. Investigate any unauthorized disclosure of information by any committee member or employee of the committee and report to the legislature concerning any allegation which it finds to be substantiated.

III. Receive sworn complaints, make findings of probable cause, and investigate allegations of improper conduct which may reflect upon the legislature, relating to the conduct of individuals in the performance of their duties as members of the legislature, or as officers or employees of the legislature, and make appropriate findings of fact and conclusions with respect to such conduct. Deliberations on such sworn complaints shall be conducted in executive session in



accordance with procedures set forth in RSA 14-B:4 and established by the committee under RSA 14-B:5. The committee shall consider any sworn complaint and shall process each complaint in a confidential manner.

IV. The committee shall issue guidelines, including its written opinions, to elucidate proper and appropriate conduct for individuals relating to the performance of their duties as members, officers, or employees of the legislature. Such guidelines shall be consistent with statute. Before the guidelines and opinions become effective, the committee shall distribute such guidelines and opinions to the members of the senate and the house of representatives. Specific guidelines or opinions may be repealed by a majority vote of both houses for 3 legislative days after distribution. The committee shall not engage in deliberations under paragraph III until these 3 legislative days have passed.

#### 14-B:4 Investigations; Procedures.

I. Any person who knowingly and willfully swears falsely to a sworn complaint does so under penalty of perjury, and the committee may refer any such case to the attorney general for prosecution. No investigation of conduct of an individual, and no report, resolution or recommendation relating to that individual, may be made unless approved by the affirmative recorded vote of not less than 5 members of the committee. No other resolution, report, recommendation, interpretive ruling, or advisory opinion may be made without an affirmative vote of a majority of the members of the committee.

II. If as a result of the probable cause finding under RSA 14-B:3, III, the committee determines by a recorded vote that there is not substantial credible evidence, the committee shall report such determination to the complainant and to the party charged together with an explanation of the basis of such determination.

III. If as a result of the probable cause finding under RSA 14-B:3, III, the committee determines by a recorded vote that a violation is inadvertent, technical or otherwise of a de minimus nature, the committee shall correct or prevent such a violation by informal methods.

IV. If as a result of the probable cause finding under RSA 14-B:3, III, the committee determines by a recorded vote that the alleged conducted is not within the committee's jurisdiction, the committee shall report such determination to the complainant and to the party charged together with an explanation of the basis of such determination.

V. If as a result of the probable cause finding under RSA 14-B:3, III, the committee determines that substantial credible evidence exists, but that the violation, if proven, is not sufficiently serious to

justify any of the penalties expressly referred to in paragraph VI, the committee shall propose a remedy it deems appropriate.

VI. If as a result of the probable cause finding under RSA 14-B:3, III, the committee determines that clear and convincing evidence exists of an offense which if proven would warrant one of the following findings, then the committee shall promptly conduct an investigation. The committee may find that:

(a) No action is appropriate, because no improper conduct occurred.

(b) No action is appropriate. There is insufficient evidence that improper conduct occurred.

(c) There was improper conduct. Said improper conduct does not justify the recommendations in subparagraph VI(d). However, agreement has been reached between the respondent and the committee to resolve the matter.

(d) There was improper conduct, and there is a recommendation of either reprimand, censure, or expulsion.

VII. In making probable cause findings and conducting investigations under this chapter, the committee shall have subpoena powers. If the respondent refuses to participate in the proceedings, the committee may refer the complaint to the attorney general for appropriate action. The committee shall issue any recommendation for disciplinary action in the form of a committee report to the speaker of the house and the senate president. Before any disciplinary action may be taken against any individual, the report shall be ratified by that individual's respective body of the general court, or, in a case involving a joint legislative staff member, by the house and the senate in joint convention.

VIII. Any member of a committee who is directly or indirectly involved in any inquiries or proceedings before the committee shall recuse himself from participation in such inquiry or proceeding. In the event that a member recuses himself from participation in a particular case, the appointing authority shall designate an alternate to serve on the committee for that case only.

14-B:5 Rules; Procedures and Standards. The committee shall adopt, publish, and make available to the public rules governing its procedures as well as standards for improper conduct and disciplinary action, consistent with the procedures set forth in RSA 541-A.

2 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill establishes a legislative ethics committee which will issue rulings and opinions on ethical issues involving the legislature and will investigate charges of improper conduct made against legislators and legislative staff and officers. The committee consists of leg-



islaters representing both political parties, 2 public members, and the attorney general or his designee.

The bill sets out the procedures the committee shall follow when investigating complaints and determining disciplinary measures. The committee is granted the authority to make rules regarding its standards and procedures.

Adopted.

SENATOR BASS: I had distributed amendment number 1461L. I urge your adoption of that amendment.

Senator Bass offered a floor amendment.

### **Floor Amendment to SB 29-FN-A**

Amend RSA 14-B:1, I and II as inserted by section 1 of the bill by replacing them with the following:

14-B:1 Definitions. In this chapter:

I. "Investigation" means a proceeding undertaken by the committee after a finding of probable cause based on substantial credible evidence that a violation within the jurisdiction of the committee may have occurred.

II. "Jurisdiction of the committee" means those actions which allege a violation of law, guideline, rule or regulation and relate to the conduct of individuals in the performance of their duties as members, officers or employees of the legislature.

Amend RSA 14-B:3, I as inserted by section 1 of the bill by replacing it with the following:

I. Issue interpretative rulings explaining and clarifying any guideline, rule or regulation within the jurisdiction of the committee. The committee shall also render an advisory opinion, in writing within a reasonable time, in response to a written request by a member, concerning the application of any law, rule, or regulation within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion. Hearings held on a matter within the jurisdiction of the committee shall be conducted in executive session unless the respondent elects otherwise. The committee shall issue an opinion in a timely manner.

Amend RSA 14-B:3, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The committee shall issue guidelines, including its written opinions, to elucidate proper and appropriate conduct for individuals relating to the performance of their duties as members, officers, or employees of the legislature. Such guidelines shall be consistent with statute. Before the guidelines and opinions become effective, the committee shall distribute such guidelines and opinions to the



members of the senate and the house of representatives. Specific guidelines or opinions may be repealed by a majority vote of both houses for 3 legislative days after distribution. The committee shall not engage in actions under paragraph III until these 3 legislative days have passed.

Amend RSA 14-B:4 and 14-B:5 as inserted by section 1 of the bill by replacing them with the following:

14-B:4 Investigations; Procedures.

I. Any person who knowingly and willfully swears falsely to a sworn complaint does so under penalty of perjury, and the committee may refer any such case to the attorney general for prosecution. No investigation of conduct of a respondent, and no report, resolution or recommendation relating to that respondent, may be made unless approved by the affirmative recorded vote of not less than 5 members of the committee. No other resolution, report, recommendation, interpretive ruling, or advisory opinion may be made without an affirmative vote of a majority of the members of the committee.

II. If, after receiving a sworn complaint, the committee determines by a recorded vote that there is not substantial credible evidence with which to make a finding of probable cause, the committee shall dismiss the complaint and shall report such determination to the complainant and to the respondent together with an explanation of the basis of such determination.

III. If, after receiving a sworn complaint the committee determines by a recorded vote that the alleged conduct is not within the committee's jurisdiction, the committee shall dismiss the complaint and shall report such determination to the complainant and to the respondent together with an explanation of the basis of such determination.

IV. If following a probable cause finding under RSA 14-B:3, III, the committee determines by a recorded vote that a violation is inadvertent, technical or otherwise of a de minimus nature, the committee shall correct or prevent such a violation by informal methods.

V. If following a probable cause finding under RSA 14-B:3, III, the committee determines that the matter cannot be resolved under paragraph IV, then the committee shall promptly conduct an investigation. Following the investigation, the committee may find that:

(a) No action is appropriate, because no improper conduct occurred.

(b) No action is appropriate because there is not clear and convincing evidence that improper conduct occurred.

(c) There was improper conduct based upon clear and convincing evidence. Said improper conduct does not justify any of the recommendations in subparagraph V(d). However, agreement has been reached between the respondent and the committee to resolve the matter.

(d) There was improper conduct based upon clear and convincing evidence, and there is a recommendation of either reprimand, censure, or expulsion.

VI. In making probable cause findings and conducting investigations under this chapter, the committee shall have subpoena powers. If the respondent refuses to participate in the proceedings, the committee may refer the complaint to the attorney general for appropriate action. The committee shall issue any recommendation for disciplinary action in the form of a committee report to the speaker of the house and the senate president. Before any disciplinary action may be taken against a respondent, the report shall be ratified by the respondent's respective body of the general court, or, in a case involving a joint legislative staff member, by the house and the senate in joint convention.

VII. Any member of the legislative ethics committee who is directly or indirectly involved in any inquiries or proceedings before the committee shall recuse himself from participation in such inquiry or proceeding. In the event that a member recuses himself from participation in a particular case, the appointing authority shall designate an alternate to serve on the committee for that case only.

14-B:5 Rules; Procedures and Standards. The committee shall adopt, publish, and make available to the public rules governing its procedures as well as guidelines referred to in RSA 14-B:3, IV consistent with the procedures set forth in RSA 541-A.

Floor Amendment Adopted.

SENATOR HUMPHREY: Senator Bass, on the last page there is the appropriation of \$100,000. How will that be spent? I mean if there are no complaints, for example, what's the need to spend the money?

SENATOR BASS: Senator Humphrey, the amendment which we just approved, which is printed on page 10 of the calendar, if you look at the very beginning, it says amend the bill by replacing all after the enacting clause with the following. Which means that the bill that you have in your folder has been replaced by the amendment in the calendar. The amendment in the calendar has no appropriation.

SENATOR PODLES: Senator Bass, as you know even in committee, I sort of objected to the provision that says the office of the

Attorney General should provide legal counsel and assistance to the committee as needed, is that still in the bill? It's on page six of the bill.

SENATOR BASS: Page six of what bill, the original bill?

SENATOR PODLES: Yes, the original bill.

SENATOR BASS: I don't see it on page six of the original bill. Could I have a 30 second recess?

Recess.

Out of recess.

SENATOR BASS: I would like to respond to Senator Podles question. The section of the bill that she refers to has been eliminated in the amendment in the Senate calendar.

SENATOR RUSSMAN: This is a follow-up on Senator Bass' clarification just briefly. The Attorney General's Office or the Department of Justice as it is in the statute, takes over as a committee member and that would change the New Hampshire Bar Association. And it was through negotiations that we thought that would be a better way to effect the bill and implement it.

Question is on Third Reading.

A Roll Call was requested by Senator Disnard.

Seconded by Senator Roberge.

The following Senators voted yes: Oleson, W. King, Heath, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following voted no:

Yeas 24

Nays 0

Ordered to Third Reading.

SB 143, extending time limits for condominium projects. Public Affairs committee. Ought To Pass With Amendment. Senator Wayne King for the committee.

SENATOR W. KING: SB 143, makes change to the condominium law in the state of New Hampshire. Right now there is a seven year period in which the owners of the condominiums or the developer or the Owners Association has to build out that condominium. Because of the down turn in the economy in the state of New Hampshire there are quite a number of condominium projects which have not



been built out to their capacity. That is a problem for the banks that may end up owning them. It is a problem for the Owners Association who may find themselves owners of the units, who may find themselves paying two and three and four times what they were anticipating as maintenance cost on those condominiums. What this bill does is extends the time period from 7 to 14 years. It does so only on the vote of the Owners Association so that there is no constitutional problem with making that change and it can only be approved if it is approved by the Association and the Attorney General's Office.

SENATOR HEATH: Senator King, isn't this changing the rules after the game is half way through?

SENATOR W. KING: No Senator Heath, it's not changing the rules after the game is half way through because you are allowing the Owners Association to vote on whether or not they are going to continue on in that build out period.

SENATOR HEATH: And that's the way that you get around piercing the corporate veil?

SENATOR W. KING: That is correct. The Owners Association who are the technical owners of their portion of it have a vote on that matter.

SENATOR HEATH: They have essentially a veto on the matter?

SENATOR W. KING: Well if they are the owners of it, yes. The Association does.

SENATOR HEATH: Collectively or individually? Then if one owner who had signed a contract and the expectation was because of the law that this would be built out and they didn't agree with that, they still as an individual have lost that contractual arrangement, if they are out-numbered, if this bill should pass and they are out-numbered in the vote?

SENATOR W. KING: Well as a matter of fact Senator Heath, as the bill was amended the applicability of the time limit for Owners Associations that come prior to 1977 requires a unanimous vote.

SENATOR PRESSLY: Senator King, will this bill in any way conflict with the authority of local municipalities regarding their zoning laws, their building laws? Will this in anyway conflict with your local governing body?

SENATOR W. KING: I believe the answer to that, Senator Pressly, is no. This just deals with condominium law and the declarations that have to be filed with the Attorney General's Office.

SENATOR PRESSLY: O.K. The portion at roman numeral number IV is confusing for me to understand. I want to make sure that I understand what we're voting on. Are you saying, and will this bill mean that if, if they want to extend the period from 7 - 14 years that the association votes on that extension from 7 - 14 years? It appears to me or there is a question in the wording that I do not understand. My concern is that this does more than extend the time frame. My concern is that it will also make it possible for the design and the construction to be altered. My thinking is this: In a project like this the first owners purchase with the understanding that the rest of the complex will be built in a compatible, a similar quality and style. And if in fact there is a delay will this also allow the developer to change the quality, change the style, the configuration as this reads to change in the plan of disposition or development of the condominium. So, my question is this: can you assure me that this bill only extends the time period that the current existing project as planned in the design concept, as known to the whole community, that is on file with the municipality, that the design plan, construction and materials, meaning construction materials will not be changed without some approval from the Condominium Association?

SENATOR W. KING: Senator Pressly, if the design plan...

SENATOR PRESSLY: Excuse me, is this on recording, I would like this answer to be recorded. O.K. can she hear me?

SENATOR W. KING: I wanted to speak to you, Senator Pressly, rather than to stand with my face to the microphone. If the design plan is recorded with the condominium documents, thereby recorded with the Attorney General's Office, then that would be considered a material change and would have to be voted on by the Condominium Association. This deals only with the length of time. Now, if the Association decided to do that, they would be able to do that at any rate. If the Association decided to have a vote on whether they were going to put siding on the building, they are entitled to do that. They have a vote as an Association. This law doesn't change that. This change doesn't change that.

SENATOR PRESSLY: Clarity, the legislation that we are about to pass in no way effects the ability to change the project, both design wise and material of construction wise?

SENATOR W. KING: The legislation that we are about to pass in no way affects the existing law that deals with that issue.

SENATOR PRESSLY: Thank you very much.

SENATOR ST. JEAN: Senator King, as I understand it, the original bill went from 7 - 10 years the condominium project, those extra



years. And then it was bumped to 14 years. What was the wisdom to go from 7 to 14 years versus 7 to 10 years?

SENATOR W. KING: Senator St. Jean, the reason for that essentially was that the House is working on similar legislation right now that will reflect the fourteen year date. Much of what you see here was what we came up with as a result of discussions with members of the House committee and with other people who were working on this particular issue. We are hoping very strongly that we are going to be able to expedite this process so that in as many opportunities as we possibly can we are going to save the owners of the condominium, the owners of the units the problem of being stuck with a condominium development that is one-quarter finished and maintenance fees which are four times what they anticipated.

SENATOR ST. JEAN: Would you believe Senator, from going to 7 to 14 years I think is a little dramatic and I would feel much more comfortable at least being somewhat involved in this business albeit on the other side that it should have remained at 10 years and not have gone to 14 years.

SENATOR W. KING: Senator St. Jean, I would believe that and I would suggest that when this legislation gets over to the House that they will be working on that and that you're able to go in and testify on that. And I am sure that the committee would be amenable to listening to your rationale for them.

SENATOR HEATH: Senator King, something that Senator Pressly asked got me thinking and I've got a further question and it's this. If the approval of a plan has a time line on it, seven years to complete until the approval runs out, does this effect that communities approval time line or just the contractual arrangement between the owner, the builder and the unit owner?

SENATOR W. KING: It is only the relationship between the original developer, the condominium buildings and the unit owners.

SENATOR HEATH: It leaves a time line approval by the town.

SENATOR W. KING: It does not affect any agreements with the towns.

SENATOR HEATH: Thank you.

SENATOR COLANTUONO: Senator King, you obviously learned a lot about this bill in committee, but I wasn't on the committee so what I would like to know Senator, is whether there was a general consensus among the interested parties about supporting this bill, that being the developers, the banks and the Condo Association members, or are there some parties out there that are objecting to this bill that we should know about?



SENATOR W. KING: In fairness to Senator Pressly who on several occasions has said to me, why were there no folks from the Condominium Association there. I have to say that there were no people there from the Condominium Association. However, the other interests was there and there was a serious problem with the bill as it came to our committee. What you see here is the result of a lot of assistance from the Attorney General's Office, the wisdom of Dana Bisbee although we don't always agree on, but at least in this particular situation we agreed on it and as well as folks from the banking community and folks from the building community, members of the committee. Many of whom were concerned as you were and as Senator Pressly was about the effect that it would have on the owners, the citizens. And it was pretty clear to me and clear to, I think a lot of other people, that there was a benefit to be occurred both to unit owners as well as banks that might be stuck with unfinished units and developers who just don't have the, who can't seem to build out right now because of the economy that doesn't create the market for those units.

SENATOR COLANTUONO: I thank the Senator for that excellent explanation. I want to make sure that I'm clear that I'm understanding this correctly so that the unanimous vote that is required in section six applies only to those condominium developments where the seven year period has already expired?

SENATOR W. KING: That is correct.

SENATOR COLANTUONO: So that if there, to further Senator Heath's original question, if there is a condominium development that is six years into that seven year period.

SENATOR W. KING: Right.

SENATOR COLANTUONO: There only is a two-thirds vote required?

SENATOR W. KING: That is correct.

SENATOR COLANTUONO: So that there will be some people who might be disenfranchised by this bill?

SENATOR W. KING: I suppose that there might be. But under the circumstances they would still have to, they would still be a two-thirds majority required. So, lets say for example that they were six years into that seven period and only half build up. Well, two-thirds of the folks in the association would have to vote in order to extend the time.

SENATOR COLANTUONO: Thank you Senator.

SENATOR DELAHUNTY: This bill, I think we all know what's being done to industry right now and the federal regulators coming in and I would call it a squeeze, but there is some serious problems confronting the small business man, builders, realtors and the banking industry is bothered as well. This bill, from the work that I have done on it with the various committees and the calls that I have had, is very supportive of both the banking industry and the building industry and the compromise has worked out so that it does help both industries at a time when they need it the most and I would urge your support for passage of the bill. Thank you.

SENATOR ST. JEAN: Senator King, Senator Colantuono was asking a question about being in the sixth year when a two-thirds vote occurs. Two-thirds of those individuals who currently inhabit the condominium project. Senator would you believe that banks are the two-thirds owners of a number of these projects within the state? So, what you're going to have in some instances is the bank deciding on what they are going to do with the condo project. And at the six year, all of a sudden they are going to be able to bump it up to 14 years under this piece of legislation on how the property is going to be built out and whether it's going to be built out in the same like fashion as the first two or three units, say, of built out about 10 or 12 different units. Would you believe?

SENATOR W. KING: Senator St. Jean, yes, obviously depending on how the condominium documentation is structured and depending on how many of the units have been sold, yes indeed the bank could own quite a number of unit votes there, but for them to own two-thirds would mean that the condominium was hardly built out at all and if there was a problem with a bank trying to ram a proposal through it would seem to me that it would be fairly easy to muster a simple one-third vote to stop that.

### **Amendment to SB 143**

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Intent. The general court recognizes that the real estate market within the state of New Hampshire has experienced a downturn such that the development plans of many condominium declarants have been curtailed or held in abeyance. The general court further recognizes that many condominium developments have been purchased by new developers or are held by mortgagees who must assess the project and the real estate market before undertaking completion of a phase or phases within the condominium. Recognizing that declarants, successor declarants and mortgagees



in many cases cannot complete projects within the time limits originally set forth in the condominium act and the condominium instruments, which ultimately disadvantages the owners of condominium units within these projects as well as the municipalities in which they are located, the general court finds that time periods for expansion and contraction of condominium developments should be extended.

2 Time Limit Extended. Amend RSA 356-B:16, III(c) to read as follows:

(c) A time limit, not exceeding [7] 14 years from the recording of the declaration, upon which the option to expand the condominium shall expire, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;

3 Time Limit Extended. Amend RSA 356-B:16, IV(c) to read as follows:

(c) A time limit, not exceeding [7] 14 years from the recording of the declaration, upon which the option to contract the condominium shall expire, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;

4 Time Limit Extended. Amend RSA 356-B:23, III to read as follows:

III. All convertible lands shall be deemed a part of the common areas except for such portions thereof as are converted in accordance with the provisions of this section. Until the expiration of the period during which conversion may occur or until actual conversion, whichever occurs first, real estate taxes shall be assessed against the declarant rather than the unit owners as to both the convertible land and any improvements thereon. No such conversion shall occur after [5] 10 years from the recordation of the declaration, or such shorter period of time period as the declaration may specify.

5 Amendment Not Necessary. Amend RSA 356-B:54, IV to read as follows:

IV. The declarant shall not make any material change in the plan of disposition or development of the condominium contained in an application for registration without notifying the attorney general, obtaining his prior approval and making appropriate amendment of the public offering statement. **Amendment of condominium instruments recorded on or after September 10, 1977, to extend the time limits under RSA 356-B:16, III(c), RSA 356-B:16, IV(c) or RSA 356-B:23, III shall be subject to existing voting procedures established by the condominium instruments and shall be deemed a material change requiring notice to the agency or ap-**



**proval therefrom, which change shall be considered by the agency as soon as is practicable.**

6 Applicability. The time limits extended by this act under RSA 356-B:16, III(c), RSA 356-B:16, IV(c) and RSA 356-B:23, III shall apply to all condominium instruments recorded on or after September 10, 1977, provided, however, that the extended time limits relating to additional and withdrawable land shall not apply to condominiums with respect to which the prior statutory time limits relating to such additional and withdrawable land have expired, unless the condominium instruments are amended by a unanimous vote of all unit owners, and provided further that the extended time limit relating to the exercise of convertible land rights shall not apply to condominiums with respect to which the prior statutory time limit relating to the exercise of such convertible land rights has expired, unless the condominium instruments are amended by a unanimous vote of all unit owners.

7 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted.

Ordered to Third Reading.

Senator Pressly in opposition to SB 143.

Senator St. Jean in opposition to SB 143.

**SCR 1**, relative to L-Tryptophan. Public Institutions, Health & Human Services committee. Ought To Pass. Senator John King for the committee.

SENATOR J. KING: Public Institutions committee voted ought to pass and at this time I would like to defer to the King from the north country, Senator Wayne King, he's been studying this for a long time and he would like to speak on it.

SENATOR W. KING: I thought that I was just going to be referred to in case there was any questions, Mr. President. I'll just say very quickly that there is a dietary supplement called L-Tryptophan which is manufactured in several places sold throughout the United States. There was a contaminated batch of this L-Tryptophan which came into the United States from a company, which the source appears to be a company named Showa Denko out of Japan. That contaminated batch has killed over 20 citizens in the United States already. One of whom is from New Hampshire and has made many, many thousands of other people very sick. It is a dietary supplement so that it does not come under the Federal Food and Drug Administration. And the request of this resolution is just to ask Congress to

take a look at why that happened and how we can prevent it from happening again with other such supplements.

Adopted.

Ordered to Third Reading.

**SB 43-FN**, establishing a committee to study utilization review and managed care. Public Institutions, Health & Human Services. Ought To Pass With Amendment. Senator McLane for the committee.

**SENATOR MCLANE:** This business of utilization review of health care has been entitled the hassle factor by the medical profession. It is a whole new industry out there. Which is to check up on people's medical care that is insured and to try and cut those cost. What happens is you have a surgeon that operates on you and says that you ought to stay in the hospital for four days and on the second day the surgeon gets a call from a secretary or a nurse out in Texas who says we only will pay for two days for Mr. so-and-so to have his gall bladder removed. And what bothers the physicians particularly is that they must obviously come out of the operating room, make the telephone calls at a time that they are available and then they speak with someone who does not have the medical knowledge to know whether this utilization review is appropriate or not. The physicians would like to have a least as part of the utilization review that they are speaking to an equal or a peer. The Medical Society and the committee were both feeling that this does need study. There is a federal bill called the Physicians Relief bill that will deal with this hassle factor of utilization review. It's gotten out of hand and I think that probably a committee to look into it from a state point of view would be better before there is legislation to control it.

#### **Amendment to SB 43-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study utilization and management review and managed care.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the practicality and necessity of allowing private utilization and management review plans to operate in New Hampshire. The committee shall include the following:

I. Two senators, or designees, appointed by the senate president.

II. Two representatives, appointed by the speaker of the house.

III. One public member, appointed by the governor.

IV. The insurance commissioner or his designee.

V. The commissioner of health and human services, or his designee.

VI. One representative of the New Hampshire Hospital Association, appointed by such association.

VII. Two physicians, appointed by the New Hampshire Medical Society.

VIII. Two insurance providers, one of whom shall be a representative of a health maintenance organization, nominated by the speaker of the house and appointed by the governor.

Amend the bill by replacing section 3 with the following:

3 Duties; Report. The committee shall study private utilization and management review plans existing in other states and examine whether or not such plans would be beneficial in New Hampshire. If appropriate, the committee shall recommend legislation to allow and regulate such plans in this state. The committee shall report its findings and any recommendations for legislation to the governor, senate president, and speaker of the house on or before September 15, 1991.

### AMENDED ANALYSIS

This bill establishes a committee to study the practicality and necessity of allowing private utilization and management review plans to examine the medical necessity and appropriateness of hospital resources and medical services given to patients for the purpose of determining the availability of payment.

Amendment Adopted.

Ordered to Third Reading.

**SB 61-FN**, relative to speedy payments for the care of children in foster homes. Public Institutions, Health & Human Services. Inexpedient To Legislate. Senator Podles for the committee.

**SENATOR PODLES:** The committee was sympathetic to the problem of SB 61, but passing this bill would open DCYS to litigation if the state does not begin payments within 60 days. The committee recommends inexpedient to legislate.

### SUBSTITUTE MOTION

Senator Disnard moved to substitute Ought To Pass for Inexpedient To Legislate.

**SENATOR DISNARD:** I was one of the sponsors of this bill, not the prime sponser. The reasons behind this bill is that the state of New Hampshire is not being realistic, nor polite, nor understanding of



families that accept foster children. Thank the good Lord, we have families in this state that will accept foster children. In one of my communities, specifically my largest community, there is a family that has accepted four foster children. Several weeks before Christmas I had a call from the father, one of the parents in this particular family and the state was approximately \$3500 in arrears in its bills. They might not have been able to have a Christmas. We reviewed this with the powers to be within the state and a check was going to be issued. Several days before Christmas, a check still was not issued. At the hearing it was very plain that one child, one family had not been paid in excess of nine months. There were many instances where other providers had not been paid. I feel sorry for the state that they are afraid they might have litigation if they're not paying these families on time. How about considering the people in this state for a change? How about considering those people who are willing to take children? What if these families refused to take these children, and people may smile, but this is a strong possibility. I hope for once we will consider what's best for the children and the families in this instance, Thank you.

SENATOR HEATH: Senator, wasn't it just a short time ago that DCYS was advertising that they had a shortage of foster parents and were trying desperately to recruit them?

SENATOR DISNARD: That may be Senator. But that does not address the problem that these people are not being paid in a timely manner.

SENATOR HEATH: Then don't you think the passage of this bill might help them in their recruitment problem?

SENATOR DISNARD: Yes, thank you very much.

SENATOR BLAISDELL: I sympathize with Senator Disnard. I've had the same calls and I also have had calls from stenographers from the state of New Hampshire who have not been paid. We have tried, by the way, to address this problem in the Fiscal committee. We have talked to the people in Administrative Services to try to get these bills paid on time. In fact I guess you will find that maybe the state of New Hampshire this week maybe had to borrow some money to pay those very people that maybe Senator Disnard is talking about. I have a tremendous amount of sympathy, I think that this is something that the Senate has to make a decision on, but it isn't only foster children. It can be stenographers in the state of New Hampshire. It could be nursing homes, it could be many, a whole wide picture of bills not being paid on time because, whether you believe it or not, the state of New Hampshire has a bad cash flow

right now. And whether this opens it up to litigation, I'm not sure Senator. But I do know that the people in state government have tried very hard to address this problem. We have been able to catch up on quite a few people. I'm not going to speak one way or the other for your motion Senator. All I know is that the Administrative Services in the state of New Hampshire has tried very hard to take care of the problems that you're trying to address here. Now if you want to force it I just wondered why you haven't put in stenographers and family care and nursing homes and just about every other thing that we contract in the state of New Hampshire. Because it's not only the foster children. People that take in foster children, there are other people with enhanced family care and other areas that are not being paid. So this is something for you to make the decision on, but I do know that the state is honestly trying to address the problem. The problem is cash flow.

SENATOR FRASER: Senator Disnard, if this bill should pass in its present form, what would be the penalty. It just says that the payments due to the care of children of foster homes shall begin within 60 days of the child's placement in a foster home. What if they didn't comply?

SENATOR DISNARD: In the hearing there was some other suggestions made of how this bill could be re-written. The committee chose not to do that evidently because this came out Inexpedient to Legislate. Perhaps a better motion would be Senator, to recommit, with the idea of changing the language and handling those questions.

SENATOR FRASER: Thank you, Senator.

SENATOR MCLANE: Senator Blaisdell, is some of the lapse that comes back into the state budget caused by this sort of late payment? Payments that are more than 60 days in arrears?

SENATOR BLAISDELL: I don't believe so, Senator.

SENATOR MCLANE: My question is, is the state making money off not paying its bills for foster children?

SENATOR BLAISDELL: I don't believe so Senator. I think that there's been an effort by the people in the Administrative Services to pay their bills the best that they can. We have tried to address it. As I said in the Fiscal committee and by talking to Administrative Services, I had the same calls that Senator Disnard had. And we tried very hard to set up another system; whether the billing system should be in Concord. We had people in the Keene area that are not being paid for the same type that he is talking about. But they had



to go through Concord and it had to go through all that paper work and then go back. So, what they are trying to do is to set up another system so it can be paid for locally and maybe that would speed it up a bit. But I really hope that's not the idea that we would be making money off the lapses. I think that we have tried very hard to pay the bills on time. I would support a recommit. I think that there is something else that could be done. I just don't believe that we should be putting the state of New Hampshire in this position, that's all.

SENATOR MCLANE: I guess my last question would be by recommitting would you consider that this would enable the Senate to send a message to state government that it's absolutely unacceptable to ask a woman to take care of foster children where she is not making any money and wait for two months before she pays for the groceries they ate two months ago?

SENATOR BLAISDELL: I agree that it is unfair, there is no question about that.

SENATOR W. KING: I rise in support of the motion ought to pass. In support of my colleague George Disnard, and want to respond to a couple of the things that Senator Blaisdell and others have raised today. First of all, why is this just foster children? It's because foster children are the wards of the state. They are kids first of all and we are responsible for them second of all. And so they should take the highest priority. Now I know it's tough for us to set priorities and Senator Blaisdell has told you that we are not paying our bills on time. Whatever the reason is, there are stenographers, there are a lot of people who aren't getting paid on time. But foster kids have to be one of our very, very first priorities. And let me tell you something, I don't believe for a second that this problem is a financial problem. I think it's an administrative problem. Because we have so many people, so many mid level managers shuffling paper over at the Division of Children, Youth Services, that if we would just stream-line the process we could solve this problem and get these families paid within 60 days. But the problem is as with every other state bureaucracy, it's always easier to raise the bogey-man of law suits than it is to address the problem that's happened. And it's my opinion, having taken a careful look and talked with an awful lot of people who roll up their sleeves everyday at DCYS and at other agencies, that in this one case at least we can solve the problem without spending more money, without necessarily taxing, without necessarily taking that money away from anybody else. But merely by speeding up the administrative process. And this is a message to Doctor Bird and to everybody else in the Department of Health & Human Services that you will speed up that process.



SENATOR PODLES: Senator King, would you believe that you are correct. That it is the design of the system there is so many checks and balances that it takes too long to get the job done. And that we now have a new Commissioner in the department and also a new Commissioner in DCYS and they are looking at the problem. Would you believe?

SENATOR W. KING: Absolutely. I would agree Senator Podles that we have a new Commissioner, Doctor Bird. We have a new person heading the DCYS, Mr. Chevrefils. I think it's time that we sent them a message by voting on this bill today in the affirmative that we believe that one of their first priorities is to stream-line the administrative procedures that occur in that agency so that foster care children and the families that take care of those foster care children get care and get the money that they need in order to provide that care as expeditiously as possible. And if we don't tell them that, they are going to shuffle this to the bottom of the administrative pile and worry about other things first. And I am saying that we ought to do that.

SENATOR CURRIER: Senator King, isn't it true that not every department is having trouble paying their bills, but it's really sporadic. That there are divisions and departments in the state of New Hampshire who in fact are paying their bills on time?

SENATOR W. KING: Yes, that is true.

SENATOR CURRIER: And that there is probably something wrong with the system as opposed to the cash flow problem?

SENATOR W. KING: Yes, Senator Currier as part of the work that I have done on these sort of issues over the last year. I have spent a good deal of time this summer talking directly with service providers in this particular division. And I heard time and time again from them that there is a lot of stream-lining that could be done merely in order to make those payments, merely by making a few changes in the procedures from which papers get shuffled from one individual to another.

SENATOR CURRIER: Isn't it true though that when the state has a cash flow problem that they do like the cities and towns do and as you and I as business men do and that is borrow in anticipation of taxes in the cases of cities and towns. But there is a provision so that the state treasurer, if in fact she is holding checks because she doesn't have enough money, can in fact borrow money to pay the indebtedness that the state has incurred over the last 30 days?

SENATOR W. KING: That is true.

SENATOR BLAISDELL: Senator Currier, will you say that again, I mean I want to hear, what did you say?

SENATOR CURRIER: I asked Senator King if there were provisions for the state Treasurer to borrow money when she has a cash flow problem.

SENATOR BLAISDELL: So there is a cash flow problem, because we just did that.

SENATOR CURRIER: I said "if" she has a problem.

SENATOR BLAISDELL: Oh, if she has a cash flow problem. Would you believe Senator, that maybe this week there was a decision made to borrow money to pay bills?

SENATOR CURRIER: Well I know that there was a decision because she was holding checks.

SENATOR BLAISDELL: Is that a cash flow problem?

SENATOR CURRIER: Yes it is, but it isn't a cash flow problem if you borrow the money earlier in anticipation that you've got a cash flow problem.

SENATOR NELSON: Senator King, I was just interested in if it would be more cost effective to put our children in orphanages and in institutions or is this a more cost effective way of not only nurturing our children, but of helping them. I was just curious, had you done any studies on this?

SENATOR W. KING: Well, Senator Nelson this is sort of the time old debate about prevention, an ounce of prevention and a pound of cure. By putting the children in a loving and caring environment you are most certainly propelling that ounce of prevention so that you don't have to end up paying a pound of cure. It's very cost effective.

SENATOR COLANTUONO: I don't think it's frivolous to worry about opening the states litigation especially in a situation like this where the bill really doesn't make it that clear first of all what the remedy is, and second of all what happens after the initial payment question. All this bill does is tell the state that they have to begin to making the payments within 60 days. They could make a small payment just to comply with the statute and then keep the language and you haven't really solved the problem. And I heard Senator Disnard say that at the hearing some of the witness' weren't satisfied with the language and wanted an opportunity to change it. So, I am concerned with overturning an Inexpedient to Legislate report, substituting ought to pass report with the current language as it stands if the sponser of the bill himself feels that there is a problem with



the language and it should be addressed. And I have heard the suggestion of recommitment and maybe that's a good idea. But it seems to me that leaving the state open to litigation which could result in the state's money and the taxpayer's money being paid out for court cost and lawyers fees and so forth when it should be going to pay these foster parents, it could be foolhardy.

Senator Heath moved to recommit.

Adopted.

SB 61-FN, is RECOMMITTED to Public Institutions, Health & Human Services.

**SB 72-FN-A**, relative to certain vaccines for children and making an appropriation therefor. Public Institutions, Health & Human Services. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** I think that this is probably symbolically one of the most important bills we will pass this session. Even undeveloped countries look after vaccinating their children first before any other expenditures. The doctors that appeared before our committee, particularly Doctor Melville from Meredith who arrived with 1500 signatures of parents, testified that it doesn't do any good to vaccinate some people if you're not going to give shots to everyone. If you remember back in 1987 we passed a bill to vaccinate all children, not just school children, not just public school children. The reason being that it wasn't efficient to just let the parochial and private school children not be vaccinated. If everyone isn't vaccinated it is not only not cost effective, but it doesn't work. The state can purchase the vaccine for one-third to one-half the price that private conveyors could purchase it. Currently the state of New Hampshire is paying for the vaccines for 1700 kids, which is the number of births in a year. Ten percent of these vaccinations are done by well-child clinics and 90 percent are done by private clinics. This is a private public partnership that makes sense for everyone and for that reason the committee sent it on to Finance where I'm sure that they will have to look at it carefully. But from a policy point of view it is prevention in the most important place we can be having it which is our young people.

**SENATOR CURRIER:** Senator McLane, I am a new member of the Fiscal committee and just recently, actually, I think it was the first Fiscal committee that I attended. We transferred \$390,000, I believe it was, out of the immunization fund to, I believe it was, to kind of offset the 9 percent or the 5 percent budget cuts. Now what effect does this have on that? Is there any correlation?



SENATOR MCLANE: The correlation, yes, exactly. Your dealing with fiscal with a supplemental budget. This is money for a vaccine that we're giving to kids now. This bill is an appropriation bill for the year 1992 and 1993 and so what this is saying is that if the Governor doesn't have this in his budget which we hear he doesn't. The Senate of the state of New Hampshire believes it's important enough to go to Finance and that it should be balanced against the other needs of the state for the years 1992 and 1993.

SENATOR CURRIER: Senator, I guess my next question then is what is going to prevent Health & Human Services to come to the Fiscal committee in 1992 and 1993 and balance their budget on the backs of this money if in fact it's appropriated?

SENATOR MCLANE: I believe that the money in Fiscal committee was money that was needed to complete the program through the year 1991. I'm not on Fiscal and I do not know the answer exactly. But my impression is that this is money that is a priority in public health. Susan Epstein was there for Public Health, and that if the money is available as it was made available through Fiscal it is their priority to spend it for this purpose.

SENATOR CURRIER: Senator, they took money that was earmarked for immunization in its move for fiscal O.K., from immunization to balance the budget, not to it. We didn't add more money to it. My question is that I resisted that in the Fiscal committee because I thought that immunization is a very valuable program and it needs to be continued. The only thing that lead me to support the motion was the assurance of Commissioner Bird and the Deputy Commissioner and Susan Epstein that in fact no child in the state of New Hampshire would go without an immunization as a result of that decision of transferring that immunization money.

SENATOR MCLANE: O.K. now I get the picture. I'm sorry I'm not a member of Fiscal. It was not an appropriation going to vaccines for supplemental, it was going out. The reason being that those funds, unless they are used within the calendar year, would not lapse back into being used in 1991 and 1992 and 1993, but would of lapsed back into the general fund. For that money was not going to be spent for vaccines because the state of New Hampshire has met its obligations over this year. This is money for 1992 and 1993 that we are talking about here.

SENATOR HOUGH: I support the committees position to act favorably on this bill. I, too, am a member of the Fiscal committee and as Senator Currier indicated that there was a request by the agency in early January and the action of the committee was deferred. A week

later the Commissioner came in after meeting with the members of the medical community and they recognized that there would be a transfer out of the appropriation line with the guarantee that they would more efficiently and effectively continue the immunization program. This is a clear policy decision of this body relative to the immunization program for the next biennium. It should be passed, its emphasis should be taken into consideration as we establish the Senate's position on Human Service's and Public Health in general and the immunization program specifically for the up coming biennium. There are moves afoot within the agency in concept with the legislative body to structure a better delivery system with the agency so that they will be able to meet their charge in terms of the population needing immunization, but it will be driven by a means test as opposed to cart blanche inoculations.

SENATOR HEATH: Senator McLane, we have had testimony that the amount appropriated was not used, it is transferred to do other things in the department. Now you have come forward with a legislative special to make an additional appropriation. What guarantee do I have as a fiscal conservative that this isn't part of a scam, if you will, by bureaucrats who know they can sell inoculations, might not sell something else, bill the money in there and then when you need it for something less popular, transfer it over as apparently they just did.

SENATOR MCLANE: Senator Heath, I don't mistrust bureaucracy as much as you do. But I think if you could have seen the doctors that came before our committee and felt the sincerity of their needs I would believe that you would agree that there is a need here. And the fact that it was overestimated the last time is perhaps due to the fact that the federal government has gone from one-third to one-half match.

SENATOR HEATH: Senator Currier, did you see doctors coming and representing these needs against that transfer over at Fiscal?

SENATOR CURRIER: No, I saw bureaucrats, Senator.

SENATOR HEATH: Oh, thank you.

SENATOR HOLLINGWORTH: I would just like to add that this bill also extends coverage to younger children that have not been covered prior. It had just been made available by the medical profession and determined that it is safe now to vaccinate children at a younger age. That is something that we have not done before and it is very important because we have lost so many children that the testimony was very strong, in fact that age group is more at risk



than any other age group and that they should be vaccinated so there is also funding in there for that group of children that have not been vaccinated in the past.

SENATOR RUSSMAN: I guess I just have some reservations about the bill and that I don't think that the state of New Hampshire should be paying to have my kid vaccinated. I can afford to have them vaccinated, the cost is not a great deal and I think that virtually all responsible parents would want to have their children vaccinated, and I think that people that financially, are in difficult times perhaps people are on AFDC medicaid is going to pay for these vaccinations. And I think that the state should not be paying for vaccinations for people who can afford it. And I think that those who are needy, absolutely. But the fact of the matter is that most people, I think the majority can and would afford to have their children vaccinated. So, I think this bill is inappropriate and we shouldn't spend any money on it.

SENATOR COLANTUONO: Senator McLane, am I adding up the appropriation correctly in this bill to over \$1.3 million?

SENATOR MCLANE: Yes, \$1,311,281.

SENATOR COLANTUONO: And am I to understand this correctly, that this money, if we pass this bill, will be appropriated. In assuming the House passes it and the Governor signs it, would be appropriated over and above any other funding that might be in the Governors budget that the Legislature might pass?

SENATOR MCLANE: It is our understanding at this point that the Governor's budget contains just the money for vaccines for means tested children for those 27 percent of children that are below the poverty level and that the justification for the bill is that unless everyone is vaccinated it doesn't do any good.

SENATOR COLANTUONO: I'm asking these simply to learn more information. I appreciate that vaccines are important, but given the financial state of the state government at this time and the fact that it's going to be hard to balance the budget the next two years, never mind this year. Do the people in favor of this bill have some way of telling us or asking us to vote it where we are going to have to cut \$1.3 million out of some other appropriation to make up for this.

SENATOR MCLANE: I think that probably it's an example of the fact that money spent now saves us money down the road. Long term disabilities. What happens when the kid didn't get the measles shot and gets the measles and becomes deaf. That is why I pointed out that even underdeveloped countries spend the money on vac-



cines. Something like the new flu vaccine. If a child doesn't get it and it's going to cost a private person \$60 to get the child to get the three shots and they decide not to do it and then the grandmother gets the influenza because it has come into the household, your going to end up paying one way or the other and the state of New Hampshire all these years has felt that it's more important to get the kids vaccinated than it is to means test everyone of them and assume that some people wouldn't get the vaccination. Particularly when the state can provide it for one-third less than they would have to pay for it.

SENATOR COLANTUONO: Procedurely Senator, would it be in order for this body to add this appropriation to the general budget later on this spring when we get to that?

SENATOR MCLANE: That is I'm sure exactly what will happen. Look at Juney, he can't wait to get it and he's going to stick it on a shelf and he's going to let it sit there until the Governor's budget comes over. And he's going to have thirty of these bills before he is through, despite Senator Humphrey trying to keep them up here. And he is going to sit there with all those thirty bills and he's going to make a judgement. He is going to have to decide whether vaccines for kids or money for the University, that is what the budget process is. But we are trying to give it a push by saying that the Senate thinks that the policy committee in the Senate thinks that vaccinating kids is important. So we are going to send it down there and let him play god with it for awhile.

SENATOR BLAISDELL: We, by the way, we, will play God with it down in Finance, it's not me. I am only one vote. But you are right Senator McLane, the bill will come to us, it will become a part of the budget, Senator Colantuono. That's what we do, we put it under a PAU there and if it's affordable we will do it and it's just as simple as that. That is the budget process. I am sure that the Governor will listen to that tomorrow and we will know exactly how much he is going to give in Health & Human Services. I understand that there is going to be an increase in Health & Human Services. By the way his budget is going to come out tomorrow and he will be happy to hear that. So maybe when we take it down in Finance we will take a hard look at it, put it under a PAU, I don't think it will come out \$1,000,000 I can assure you that, but we will try.

SENATOR J. KING: During the hearings the people to testify said that most of the money is used for the vaccine itself, that is the highest cost. And they claim that there is about 1700 new children per year. That, plus the number that they haven't had to vaccine prior to that. And then when they do get the vaccine they also pro-

vide it to the doctors and they either charge nothing or some charge \$1 for the service. And their aim is to make sure that everybody is vaccinated. That is their aim. Make sure everyone is vaccinated because in the long run it's going to save a heck of a lot of money for the state and for the people themselves.

SENATOR HOLLINGWORTH: I wanted to say that the reason that we got into vaccinating children was several years ago there were many suits because of the vaccinations in some children, a very small percentage of them had reactions to those vaccinations. The federal government at that time determined that they would get involved in vaccinating of children and half of the money for vaccinating children in the state of New Hampshire comes from the federal government. The other half comes from the state for the exact same reason. We gave immunity to the state and to the federal government when we gave free vaccines to these children in the state. That was the purpose. There is one company left for about every single one of these vaccinations that will now provide the vaccine to the state of New Hampshire and to the doctors that are providing those vaccinations. That is the reason that we took on the role as the state to do that. It is not something we took on lightly. The reason that we determined that this is in the best interest of the state of New Hampshire was because we felt it was necessary to vaccinate our children. I know that this is costly, but I think that the long range effects and the children and the people of this state is far outreaching the cost and I hope that you will see fit to pass this to June. They will again hear the testimony that another committee did and I hope that they will set the state policy. Money should be determined whether it is there or not by input from the general public because it was passed by this legislature by input from the general public and it should not be removed without consideration.

SENATOR HEATH: Senator Hollingworth, you just opened a whole new door on this thing that I hadn't thought about. I was standing here wondering why it was that people who had the means, who passed the means test wouldn't give their children the immunity if they could afford it because they were too cheap. I mean it was a suggestion of that from Senator McLane. I just saw the whole picture and I want to confirm this by asking you this question. Is the immunity you're talking about really the immunity of the positions against lawsuits and that is why we give it away to people above the means test to keep them under that cover of immunity as opposed to really protecting the children whose parents who have substantial means to do that?

SENATOR HOLLINGWORTH: No, it was to protect the state because if they gave it to everyone, they could be sure that everyone



was being vaccinated and that was the intent. They wanted to be sure that everyone of the children in this state was vaccinated.

SENATOR HEATH: Wasn't it just your testimony that if we give it away and we don't make the people pay for it, then we have given the ability of an individual to sue when the certain percentages of accidents and the certain percentage of the people who react violently, cripple, death and so on and some of these things. We have given away and given the medicine away freely we have been putting them under the protection, the doctors under the protection giving away the rights to those people to bring a suit against the state and the doctors.

SENATOR HOLLINGWORTH: It was the state as well and the federal government as well.

SENATOR HEATH: The doctors as well?

SENATOR HOLLINGWORTH: Yes, but it was the overall coverage because if it wasn't to all of the people there was a chance that we would not be able to protect the manufacturer. There is only one company that now manufactures where there were many and that was because of the event that there was so many, the cost of that vaccine went so high. And that is why the federal government got involved.

SENATOR HEATH: Would you believe Senator, that I now understand what I didn't understand before, why doctors would testify for giving away something that they could otherwise sell to make a profit.

SENATOR HUMPHREY: What is the impetus of this bill? Has the state been providing this kind of assistance for immunization programs in the past?

SENATOR MCLANE: It has, over the years. The state has provided, in fact as I said in 1987 we expanded it not only to cover public school children. Children can't come to school without certain vaccinations. There is an addition to it which is the vaccination for influenza. Which is an addition. But it's that children, because it's in the states interest to have children vaccinated. They have been paying for it and doctors have been giving the shots for the cost of the vaccine which is purchased by the state and obviously is cheaper if it is purchased by the state.

SENATOR HEATH: Well, is this bill just this years reiteration of similar bills in the past?

SENATOR MCLANE: No, because the state has always paid for it. But the rumor went out that this year they were going to ask for a means test and so that the state didn't purchase the vaccine. And



that private people would have to purchase it at far greater expense and then they would charge those couples with children who they deemed were able to pay. Which is a considerable amount for someone with a young child.

Referred to Finance (Rule #24).

Recess.

Out of recess.

Senator Delahunty in the chair.

**SB 51**, relative to motor vehicle license revocation. Transportation committee. Inexpedient To Legislate. Senator Currier for the committee.

**SENATOR CARRIER:** The subject matter on this bill is contained in SB 196 which will be taken up later today. That is the reason the committee has actually voted this out of committee Inexpedient to Legislate in that it is already taken up in another bill which you will be hearing later on.

Committee Report Adopted.

**SB 55-A**, relative to replacing the Warren Bridge on New Hampshire Route 25 and making an appropriation therefor. Transportation committee. Ought To Pass With Amendment. Senator Currier for the committee.

**SENATOR CARRIER:** The amendment is on page 13 of today's calendar. Basically, what this does is the amendment makes provision, basically adding the Warren Bridge to the ten-year highway plan by saying that this bridge is a high priority bridge replacement and it amends RSA 215 and adds it on to it. In fact there is no appropriation for this inclusion, but adding it to the ten-year plan.

**SENATOR HUMPHREY:** Well, Mr. President, I wonder if someone would explain to this freshman Senator how this highway program works as it relates to the ten-year plan and what effect bills such as this one, of this nature have on the standing in the order of priorities of projects elsewhere in the state? I mean one gets the impression that it's a free-for-all around here. Am I wrong in that?

**SENATOR CARRIER:** Yes, Senator it is a free-for-all. And it is whoever gets all the marbles or those number of marbles in terms of the ten-year highway plan. Basically, what this bill is doing is adding another bridge to the ten-year highway plan. My understanding, and I am only a second term Senator, is that there is only about five years amount of money in the ten-year plan. So, adding it to it is kind of a make-you-feel-good bill. You now get your project in but it doesn't get you any money to do it.

SENATOR HUMPHREY: What effect does this bill for example, I am not trying to pick on this bill, I don't want to be seen as picking on this bill, but just as an example. Does this somehow assign a priority to this specific project such that it moves ahead of other projects?

SENATOR CURRIER: Not as I understand the amendment as it is proposed. Basically, it adds it to the list. It becomes UU which follows PP on the list.

SENATOR HUMPHREY: It's added to the bottom of the list?

SENATOR CURRIER: Right, but, however, in the terminology it says it's a high priority bridge replacement. There's probably 25 bridges on the high priority list. Now I don't believe that there is a list, at least one that I am aware of that specifically says which one of those priority lists. I do know, however, that there are projects that are being worked on in terms of the ten-year plan in the Highway Department, but that money is being spent, though.

SENATOR HUMPHREY: I thank the Senator for telling me. Who ultimately decides then or how is it ultimately decided? Which of these projects gets funded?

SENATOR CURRIER: It actually gets done a number of ways. Through the budgetary process in terms of appropriating the money in the budget in terms of the Highway money that's related to it. So it's part of the budget process, basically. Council gets it. The people who actually administer the ten-year Highway Plan is the Governor's Council, it's a committee of the Governor's Office. There is a couple of projects now that have already been passed in the constituent groups in that area and it's in the Dublin by-pass area. They said that they aren't coming to any agreement and that other priority projects ought to go before them. And so it becomes a political nightmare in terms of who gets what priorities and when.

SENATOR HUMPHREY: But who decides that question.

SENATOR CURRIER: I think ultimately the legislature, by approving the budget, decides which projects?

SENATOR HUMPHREY: Is this bill the first of a two-step process? The second step being an effort to get this specific project included in the budget, is that how it works? Is this the first of the two step effort?

SENATOR CURRIER: I think it could be construed in that Senator. The squeaky wheel gets the grease.

SENATOR DUPONT: I would just add that the whole issue of the ten-year Highway Plan is one that this body and I think this legisla-



ture is ultimately going to have to take a look at. When we originally passed the ten-year highway plan there were certainly different situations that affected the ten-year highway plan back then in terms of federal funding and what everyone fails to recognize also, is that the availability of federal funding is going to have a major impact on our ability to carry out the ten-year highway plan. If there is an uncomfortable feeling about this reprioritization of this particular project, I would urge that perhaps the chairman might want to refer this to Capital Budget so that they might take a look at the impact on the ten-year Highway Plan and come back to us as a body with their recommendation. But in essence it's all a question of whether there is going to be available resources to do any of these projects. Prioritizing them and putting it forty-fifth or forty-eighth really is going to have no impact if ultimately there is not the monies to do that project.

SENATOR HUMPHREY: To the author, where does the figure of \$2,750,000 come from?

SENATOR W. KING: Senator Humphrey, first of all you should recognize that there is no appropriation in the amended version. So that's irrelevant. But I will answer your question. In just in saying that this is the bridge where two state police officers were killed this year in a traffic accident and as a result of that there was a survey done by the Department of Transportation to determine how they had to correct the road and the bridge in order to make it safe.

SENATOR OLESON: In trying to clarify the process what happens in the ten-year plan or in the past? The Department of Transportation usually has hearings throughout the state. Like a building last summer they had a hearing in the City Hall. It is up to the people in the area to come before at that hearing to the Transportation people and express their concerns about the problem in the north country in the program that they have for the next ten-years. And the people that it represents: County groups, Industrial groups appear and speak their peace. The Transportation Committee, this is recorded and they take their comments and considerations, what the traffic count is, what the Ashland grade is, what the cost might be and how it can fit into their program as far as construction of bridges and roads in the state of New Hampshire. So on the final count it is up to the people in the Transportation to agree to determine where these projects will be, where they shall be and how they are financed to a great extent. This is a procedure, people that do ask the Representatives and Senators to put in legislation like this. We do have a hearing and it usually is sent over ought to pass for the Transportation to consider. First it goes to Finance, and then usually they transfer the request to the department which it concerns.



SENATOR HUMPHREY: I thank the Senator for that explanation. Something that he said right at the very end I missed. What happens, what roll does the Department of Transportation play then, right at the end, I couldn't hear?

SENATOR OLESON: I can say either Transportation Committee has the hearings throughout the state whether it concerns and in several places they are heard. Then it goes back to the Transportation and they consider what they have heard at the several hearings. Accident rates, traffic count and etc. This one that we are talking about at the present time has had a history of accidents and in fact people have been killed in this area. We will go to our committee and as a rule we will report it out as ought to pass. It will go to the Finance committee to see if it will fit within the money available on hand and then it goes to the Transportation.

SENATOR HUMPHREY: The Transportation committee or Department?

SENATOR OLESON: To the Department of Transportation.

SENATOR HUMPHREY: Yes, yes.

SENATOR OLESON: And they will put it in the ten-year plan to the best of their judgement. And we always hope that they will use good judgement and that the project that we would like to have in our district they might consider quite freely.

SENATOR HUMPHREY: That is where the arm-twisting begins. Thank you.

### **Amendment to SB 55-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to replacing the Warren Bridge  
on New Hampshire Route 25.

Amend the bill by deleting sections 2, 3, and 4 and renumbering the original section 5 to read as 2.

Adopted.

Referred to Capital Budget (Rule #24).

**SB 90-FN**, relative to the Salmon Falls Road in the cities of Somersworth and Rochester. Transportation Committee. Ought To Pass. Senator Currier for the committee.

SENATOR CURRIER: This bill directs the Department of Transportation and the town officials of Somersworth and Rochester to meet and evaluate the potential for reclassifying a portion of Salmon Falls road. Which is actually in Rochester, but you have to go through Maine and Somersworth, I believe, to actually maintain the road. The bill basically requires that they get together and talk about whether this road should be reclassified from a classified highway to a class two highway.

Adopted.

Referred to Finance (Rule #24).

**SB 196-FN**, relative to administrative revocation of motor vehicle licenses of persons under age 21. Transportation Committee. Ought To Pass With Amendment. Senator Currier for the committee.

### **Amendment to SB 196-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Administrative Revocation of Motor Vehicle Licenses of Persons Under Age 21. Amend RSA 265 by inserting after section 94 the following new subdivision:

#### **Administrative Revocation of Motor Vehicle Licenses of Persons Under Age 21**

265:94-a Definition. For the purposes of this subdivision, "person" means any person under 21 years of age.

265:94-b Implied Consent; License Revocation.

I. Any person who drives a vehicle upon the ways of this state shall be deemed to have given consent to the tests specified under RSA 265:84 when a law enforcement officer has reasonable grounds to believe that the person has:

(a) Been driving or in actual physical control of a vehicle upon the ways of this state while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.10 or more; or

(b) Been involved in an accident.

II. Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph I and the test or tests may be administered.

III. Any person requested to submit to a test as provided in paragraphs I and II shall be warned by the law enforcement officer requesting the test that any prior refusal to submit to the test will result in revocation of his license to operate a motor vehicle for 6

months. If the person has had a prior refusal of consent under this subdivision, any subsequent refusal shall result in revocation of his license to operate a motor vehicle for 2 years. Following this warning, if a person under arrest refuses upon the request of a law enforcement officer to submit to a test designated by the law enforcement agency as provided in paragraph I, none shall be given.

IV. If any person refuses testing or submits to a test which discloses an alcohol concentration of 0.10 or more under this subdivision, the law enforcement officer shall submit a sworn report to the department, certifying that the test was requested pursuant to RSA 265:84 and that the person refused to submit to testing or submitted to a test which disclosed an alcohol concentration of 0.10 or more.

V. Upon receipt of the sworn report of a law enforcement officer submitted under paragraph IV, the department shall revoke the driver's license of the person for the periods specified in RSA 265:92.

VI. On behalf of the department, the law enforcement officer submitting the sworn report under paragraph IV shall serve immediate notice of the revocation on the person, and the revocation shall be effective 30 days after the date of service. If the person has a valid license, the officer shall take the driver's license of the person, and issue a temporary license valid for the notice period. The officer shall send the license to the department along with the sworn report under paragraph IV.

VII. In cases where no notice has been served by the law enforcement officer, the department shall give notice as provided in paragraph IV and the revocation shall be effective 30 days after the date of service. If the address shown in the law enforcement officer's report differs from that shown on the department records, the notice shall be mailed to both addresses.

265:94-c Hearing.

I.(a) A revocation of license under RSA 265:94-b shall become effective 30 days after the date of service of the notice of revocation.

(b) The hearing shall be held within 20 days after receipt of a request for a hearing. A record of all hearings shall be made.

(c) Upon such hearing, the department shall rescind its order of revocation or suspension or, if good cause is shown, may modify or reaffirm its order.

(d) At any time prior to the hearing provided in subparagraph (f) of this section, the person may request in writing an administrative review of the order of revocation. Upon receiving the request the department shall review the order, the evidence upon which it is based, including whether the person was driving or in actual physical control of a motor vehicle, and any other material information brought to the attention of the department, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiv-



ing the request, the department shall report in writing the results of the review. The availability of the administrative review of the order shall have no effect upon the availability of judicial review as provided under existing federal or state laws.

(e) Any person whose license is revoked under this section may request in writing a hearing. The request shall state the grounds upon which the person seeks to have the revocation rescinded. The filing of the request shall not stay the revocation. The hearing shall be held within 20 days after the filing of the request. The hearing shall be recorded, and be conducted by the department's designated agent. The hearing may be conducted upon a review of the law enforcement officer's own reports; provided, however, that the person may subpoena the officer. The department may issue subpoenas to compel the attendance of witnesses. The department shall adopt rules, pursuant to RSA 541-A, relative to hearings procedures.

II. The scope of the hearing shall be limited to the issues of:

(a) Whether the law enforcement officer requested the test pursuant to RSA 265:94-b;

(b) Whether the person was warned as required by RSA 265:94-b;

(c) Whether the person was driving or in actual physical control of a motor vehicle;

(d) Whether the person refused to submit to the testing as provided in RSA 265:92; or

(e) Whether a properly administered test or tests disclosed an alcohol concentration of 0.10 or more.

265:94-d Restoration of Licenses Administratively Revoked.

I. Unless the revocation was for a cause which has been removed, any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be eligible to apply for a new license nor restoration of his nonresident operating privilege until the expiration of:

(a) Six months from the date on which the revoked license was surrendered to and received by the department or from such other date as shall be determined by the department in cases of revocation for a first refusal to submit to a test under the provisions of RSA 265:92;

(b) Six months from the date on which the revoked license was surrendered to and received by the department or from such other date as shall be determined by the department in cases of revocation for submitting to a test disclosing an alcohol concentration of 0.10 or more under the provision of RSA 265:94-b;

(c) Two years from the date on which the revoked license was surrendered to and received by the department or from such other date as shall be determined by the department in cases of revocation

for refusing to submit to a chemical test under the provisions of RSA 265:92 or for submitting to a test disclosing an alcohol concentration of 0.10 or more under the provisions of RSA 265:94-b where the person has any prior driving while intoxicated or aggravated driving while intoxicated offense or for any prior refusal of consent or any prior administrative revocation of a motor vehicle license under this subdivision for submitting to a test disclosing an alcohol concentration of 0.10 or more under the provision of RSA 265:94-b.

II. Following a license revocation under this section or RSA 265:94-b, the department shall not issue a new license or otherwise restore the driving privilege unless and until the person presents evidence satisfactory to the department that it will be reasonably safe to permit the person to drive a motor vehicle upon the highways. No driving privilege may be restored until all applicable reinstatement fees have been paid.

III. Where a license or driving privilege has been revoked under RSA 265:94-b and the person is also convicted on criminal charges arising out of the same event and a revocation has been imposed under RSA 265:94-b, both revocations shall be imposed but the total period of revocations shall not exceed the longer of the 2 revocation periods; provided, however, that any revocation for refusing to submit to a test under the provisions of RSA 265:92 shall not run concurrently with any other penalty imposed under the provisions of this title.

265:94-e Appeal. Any person aggrieved by a decision of the department under RSA 265:94-b, I(d) may appeal the decision in Merrimack County as specified in RSA 263:76.

2 New Subparagraph; Rulemaking. Amend RSA 21-P:14, IV by inserting after subparagraph (n) the following new subparagraph:

(o) Administrative revocation of motor vehicle licenses of persons under 21 years of age, including forms, temporary licenses, and hearings procedures.

3 Administrative Revocation of Motor Vehicle Licenses. Amend the subdivision heading preceding RSA 265:94 to read as follows:

Administrative Revocation of Motor Vehicle  
Licenses [of Persons Under Age 21]

4 Rulemaking. Amend RSA 21-P:14, IV(o) to read as follows:

(o) Administrative revocation of motor vehicle licenses [of persons under 21 years of age], including forms, temporary licenses, and hearings procedures.

5 Implementation; Funding. Notwithstanding the effective date of sections 1-2 of this act, the commissioner of the department of safety or the attorney general may delay implementation of this act if funds adequate for its implementation are not appropriated. If adequate



funds are not appropriated, they shall request from the legislative fiscal committee and governor and council authority to transfer from the highway fund such amounts, not otherwise appropriated, as may be required to support the implementation of this act. If such funds are not available or not granted, the commissioner of the department of safety or the attorney general may delay the implementation of this act until adequate funds are provided.

6 Purpose of Increase. The purpose of the increase of drivers' license fees contained in section 7 of this act is to provide sufficient funds for the department of safety to establish an on-line imaging system for driver licensing. This system shall enable the department to provide a system for licensing drivers that is more convenient for the public and that ensures greater licensing security.

7 Drivers' License Fees Increased. Amend RSA 263:42, I to read as follows:

I. For each original driver's license and examination or driver's license renewal, other than for a commercial vehicle - [~~\$30~~] **\$32**; for each original commercial driver license and examination or commercial driver license renewal - [~~\$40~~] **\$42**; for each commercial driver license reexamination in a one year period - **\$20**; for each commercial vehicle endorsement, renewal of an endorsement or removal of a restriction - **\$10**. For each original driver's license issued, \$5 shall be credited to the driver training fund established by RSA 263:52. Every license shall expire on the licensee's birthdate in the fourth year following the issuance of such license. No fee collected under this paragraph shall be refunded once an examination has been taken or a license issued, except as provided in RSA 263:43.

8 Special Account Established. All moneys collected as a result of the increase in drivers' license fees as specified in section 7 of this act shall be placed in a special account known as the driver license imaging system account. The commissioner of safety, with the approval of the fiscal committee and governor and council, may expend moneys from this account for the purpose of establishing and implementing an on-line imaging system for driver licensing. All moneys remaining in the account shall lapse to the highway fund on July 1, 1993.

9 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (mm) the following new subparagraph:

(nn) Moneys received by the department of safety for the increase in drivers' license fees as specified in the amendment to RSA 263:42, I, in section 7 of this act, which shall be credited to the driver license imaging system account.

10 Repeal. RSA 265:94-a, relative to the definition of "person", is repealed.

11 Effective Date.



I. Sections 1 and 2 of this act shall take effect January 1, 1992.

II. Sections 3, 4, and 10 of this act shall take effect January 1, 1993.

III. The remainder of this act shall take effect July 1, 1991.

### AMENDED ANALYSIS

The bill establishes procedures for administrative revocation of motor vehicle licenses. The program shall apply in the first year only to persons under 21 years of age and shall apply to all persons effective July 1, 1992. The program covers:

(a) Implied consent.

(b) License revocation, suspension, and reinstatement.

(c) Notification requirements to persons charged under the law.

(d) Hearing procedures.

(e) Appeals.

(f) Rulemaking.

This bill also authorizes the commissioner of the department of safety and the attorney general to transfer highway funds, upon approval of the legislative fiscal committee and governor and council, to support implementation of this act if adequate funds are not otherwise appropriated.

The bill also increases drivers' license fees and establishes a special account for the placement of all moneys collected as a result of the increase in drivers' license fees. The account is for the purpose of establishing and implementing an on-line imaging system for driver licensing. All moneys remaining in the account on July 1, 1993, shall lapse to the highway fund.

SENATOR CURRIER: I have a parliamentary inquiry? Do we want to act on the amendment before I make my motion to recommit? I would like the bill recommitted. I would move that we recommit this to the Committee on Transportation. This is a very important piece of legislation that we have two technical changes that we would like to make.

Adopted.

SB 196-FN, Is Recommitted to Transportation.

SENATOR COLANTUONO: On SB 55-A, I understand that the action taken was to refer to Capital Budget; however, as I understand the bill all appropriation was taken out and all it does is add this program to a certain list so I don't understand the purpose of referring this to Capital Budget.

SENATOR DUPONT: Well there is an issue, Senator Colantuono, relative to the whole ten-year highway plan and how other projects will be effected if in fact the reprioritization takes place. And for

that reason Senator Nelson and I have had some discussions about trying to approach the project in a more coordinated effort on the part of the Senate, and it's confusing enough as they all come at us. There is some policy decisions as you know that need to be made by the Transportation committee. But when it ultimately comes to how those monies are going to be appropriated and in what order, it's appropriate that those decisions will be made by the Capital Budget committee.

SENATOR COLANTUONO: Thank you, Senator.

### ANNOUNCEMENTS

The Chair has two announcements.

The first one is: Senator W. King has been appointed to the Finance committee replacing Senator St. Jean.

The second one: all committee Chairman please execute the bills for next weeks calendar.

### RESOLUTION

Senator Currier moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, February 13, 1991 at 1:00 p.m.

Adopted.

Senator Currier moved to adjourn until Wednesday, February 13, 1991 at 1:00 p.m.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage

**SB 29-FN-A**, establishing a legislative ethics committee.

**SB 43-FN**, establishing a committee to study utilization and management review and managed care.

**SB 64-A**, relative to the superior courthouse in Nashua and making an appropriation therefor.

**SB 82**, relative to powers of directors, officers, and trustees of health service corporations.

**SB 96**, relative to adoption.

**SB 143**, extending time limits for condominium projects.

**SB 149-FN-A**, relative to reimbursing a certain school cooperative for certain expenses and making an appropriation therefor.

**SCR 1**, relative to L-Tryptophan.

Senator Currier moved to adjourn.

Adopted.

Adjournment.

## *February 13, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let Us Pray. Lord we thank you for the birthdays this month of two great men of our country, Abraham Lincoln the Great Emancipator, George Washington our first President and father of our country and so from then on we go on with this. Let us learn by and through their experiences right here in this Senate as we strive to do our work to the best of our ability to bring forth to bring peace throughout the world and also how to handle our budget which you will hear about today and also for the furtherance of mankind and particularly with ourselves.* Amen.

Senator St. Jean led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

### HOUSE MESSAGE

The House of Representatives is ready to meet with the honorable Senate in Joint Convention at 1:15 o'clock for the purpose of hearing the message on the budget by his Excellency the Governor, the Honorable Judd Gregg.

Recess.

Out of recess.

### COMMITTEE REPORTS

**SB 83**, an act relative to investment of public funds.

Banks committee. Ought To Pass With Amendment. Senator Delahunty for the committee.

**SENATOR DELAHUNTY:** This bill provides guarantees for local government subdivisions investing public funds. By requiring that any person accepting such public funds put a deposit or investment make available to the local governmental subdivision at the time of



such deposit or investment and option to have such funds secured by collateral segregated for the exclusive benefit of such local governmental subdivision and having a value at least equal to the amount of such funds. The amendment merely changes the makeup of the committee to include the state Treasurer and I believe that is the only change. The bill also authorizes the Bank Commissioner to adopt rules pertaining to collateralization and creates an advisory committee to assist the Commissioner with such rules.

SENATOR HEATH: Senator, can you tell me what the committee does in this?

SENATOR DELAHUNTY: I think Senator, that the committee establishing the policy and the rules to set the guidelines to protect, to further protect the collateralization method from the town or community.

SENATOR HEATH: Are there standards set for the quality of the collateral in this legislation?

SENATOR DELAHUNTY: I think that is part of what is coming out to the Commissioners office in the committee, Senator.

SENATOR HEATH: Senator, do you know if these follow the guidelines? I served a couple years ago, or three years ago I think it was, on a committee looking into setting standards for both collateralization and for the quality of the investment and do you know if those follow these guidelines or do these cut new territory, or don't you know?

SENATOR DELAHUNTY: Senator, I don't, and I understand that the bill was heard in previous years and I know what happened to the bill and I would imagine that a lot of what was in that bill is in this bill also, but I am not sure the standards as far as I know have not been pre-set.

### Amendment to SB 83

Amend RSA 386:57, II as inserted by section 8 of the bill by replacing it with the following:

**II. The bank commissioner shall by rules adopted under RSA 541-A define and classify by risk the nature of securities appropriate for collateral. There is created an advisory committee on collateralization of public funds to assist the bank commissioner in the development of such rules. The committee shall consist of the following: the state treasurer; 2 members of the New Hampshire Bankers Association, appointed by the president of the association; 2 members of the New Hampshire Government**

**Finance Officers Association, appointed by the president of the association; and one public member recommended by both associations and appointed by the bank commissioner.**

### **AMENDED ANALYSIS**

The bill provides guarantees for local governmental subdivisions investing public funds, by requiring that any person accepting such public funds for deposit or investment make available to the local governmental subdivision at the time of such deposit or investment an option to have such funds secured by collateral segregated for the exclusive benefit of such local governmental subdivision and having a value at least equal to the amount of such funds.

The bill also authorizes the bank commissioner to adopt rules pertaining to collateralization, and creates an advisory committee to assist the commissioner with such rules.

Amendment Adopted.

Ordered To Third Reading.

**SB 28-FN-A**, an act relative to promoting New Hampshire businesses and products internationally. Economic Development committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: SB 28-FN, represents a lot of years of work as Senator Fraser, who used to Chair the House committee on Commerce and Consumer Affairs, can contest that he's had to see me on a lot of occasions over the years trying to get us to do something in the area of International trade. It is the first step toward the state taking a more aggressive posture in International trade. It sets up an International Trade Advisory committee and it statutorily constitutes the authority of the state to engage in the area of International Trade. The amendment adds one additional member to the committee. That additional member is a representative of Labor so that as we begin to work toward building a future where New Hampshire is more aggressively postured in the International economy that we do so with all the different players who are involved.

### **Amendment to SB 28-FN-A**

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose and Findings. The legislature finds that increasing state efforts in promotion of international trade may result in the creation of new jobs and revenue in New Hampshire. Creating alternative markets for New Hampshire businesses and attracting foreign in-



vestment and capital to New Hampshire is particularly crucial due to the difficult economic times facing New Hampshire and the entire New England region. This act therefore specifically authorizes the department of resources and economic development to promote New Hampshire businesses and products internationally and encourage foreign investment in New Hampshire.

2 New Section; Promotion of International Trade. Amend RSA 12-A by inserting after section 2-d the following new section:

12-A:2-e International Trade Promotion. The commissioner of resources and economic development shall plan, develop and administer programs for international trade promotion and inward investment promotion in cooperation with the port authority and the Small Business Development Center and other private organizations. The commissioner shall take a pro-active role in targeting foreign trade shows and foreign trade missions and shall assist New Hampshire businesses desiring to participate in these shows and missions. In planning, developing, and administering programs under this section, the commissioner shall be assisted by the advisory committee on international trade established in RSA 12-A:28 and may draw on the revolving fund created under RSA 12-A:29.

3 New Subdivision; Committee on International Trade; Special Fund Established. Amend RSA 12-A by inserting after section 27 the following new subdivision:

#### International Trade Promotion

##### 12-A:28 Advisory Committee on International Trade.

I. There is established an advisory committee on international trade. The advisory committee shall assist the commissioner of resources and economic development in carrying out the duties assigned under RSA 12-A:2-e. The advisory committee shall:

(a) Provide a mechanism for the private sector to advise the public sector of its needs on an ongoing basis.

(b) Disseminate information among public and private sector units interested in fostering increased international trade activity in New Hampshire.

(c) Provide for ongoing measurement of progress of state agencies involved in promoting international trade.

(d) Provide coordination to maximize existing limited resources available in New Hampshire for international trade.

II. The advisory committee shall consist of the following members:

(a) One senator, appointed by the senate president.

(b) One house member, appointed by the speaker of the house.

(c) The governor or his designee.



(d) The commissioner of the department of resources and economic development or designee.

(e) A representative of the U.S. Small Business Administration, appointed by that organization.

(f) A representative of the Business and Industry Association of New Hampshire who has experience in the area of international trade, appointed by that association.

(g) The director of the New Hampshire port authority or designee.

(h) A representative of the New Hampshire Association of Commerce and Industry who has experience in the area of international trade, appointed by that organization.

(i) A representative of the New Hampshire International Trade Association with experience in the area of international trade, appointed by that association.

(j) A representative of the New Hampshire Bankers Association with experience in the area of international trade, appointed by that association.

(k) The director of the Pease development authority or designee.

(l) The director of the New Hampshire Small Business Development Center or designee.

(m) A representative of the U.S. Department of Commerce, International Trade Administration, appointed by such department.

(n) A representative of the academic community, appointed by the governor and council.

(o) A representative of organized labor, appointed by the governor and council.

12-A:29 International Trade Promotion Fund. There is hereby established in the office of the state treasurer a fund to be known as the international trade promotion fund. The commissioner of resources and economic development is authorized to accept public sector and private sector grants, gifts or donations of any kind for the purpose of funding programs associated with the promotion of international trade. Such grants, gifts and donations shall be deposited in the international trade fund and may be expended by the commissioner of resources and economic development to accomplish the purposes of RSA 12-A:2-e. The moneys in this fund shall be non-lapsing and shall be continually appropriated to the department of resources and economic development.

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill authorizes the department of resources and economic development, to plan and administer programs promoting New Hampshire businesses and products internationally and encouraging foreign investment in New Hampshire.

The bill establishes an advisory committee on international trade.

The bill also establishes an international trade promotion fund which is continually appropriated to and administered by the commissioner of resources and economic development. Public sector and private sector grants, gifts and donations for the purpose of funding programs associated with international trade promotion are to be deposited in this fund.

Amendment Adopted.

Referred to Finance (Rule #24).

**SB 152**, an act relative to a joint New Hampshire-Quebec trade council.

Economic Development committee. Ought to Pass. Senator Fraser for the committee.

SENATOR FRASER: The bill is a very simple bill. It does allow for the establishment of a New Hampshire-Quebec Trade Council. The prime sponsor of the bill was Senator Wayne King. There was no opposition to the bill and a great deal of support at the time of the public hearing. Any questions, I would appreciate if you would ask Senator King.

SENATOR OLESON: I rise in support of the SB 152, this is more or less of a companion bill to the one that we just passed. Canada happened to be the A#1 customer and also maybe the expert. So I would like to have your support and have the Senate pass this as written. Thank you.

Adopted.

Ordered To Third Reading.

**SB 37**, an act relative to amending provisions of the voluntary corporation statute. Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill is basically a recodification or a modernization of the voluntary corporation statute, which is also known as a non-profit corporation statute. The purpose of the bill was simply to bring it up to modern standards. The law had origi-

nally been entered into our books in 1887. It's somewhat lengthy, but all of the provisions do make good sense. The first part of the bill expands the purpose section to include specifically recreational and athletic facilities which are a common use of a non-profit corporation these days. The second updates provisions on articles of agreement to add the same immunity directors which we now have in the for-profit corporation statute, which is RSA 293:A. The third major change amends section six, to allow for a 2/3 vote rather than a unanimous vote for the adoption or alteration of bylaws which is considered to be unreasonable to try to get a unanimous vote. The fourth part of the bill adds an option to have membership certificates rather than stock certificates. The fifth part of the bill provides a mechanism for the dissolution of these non-profit corporations when they've outlived their usefulness. Currently the law requires a unanimous vote of everybody who was an original stockholder, or so forth. The problem with that is many of these non-profit corporations that we have in the state now are or were started many years ago and it's impossible to find out who the original members are or their heirs. So, this bill allows a provision for a court proceeding where a guardian or ad litem could be appointed to represent the interest of any parties that can't be found and it also changes to allow a 2/3 vote for dissolution. The sixth part of the bill requires the corporations to renew every five years rather than every ten years, which they do now, and it ups the fee from \$10 to \$25. The committee felt that these were all necessary changes and recommends passage. There is a floor amendment which simply corrects a typo, it adds the word membership certificate rather than member certificate.

### **Amendment to SB 37**

Amend RSA 292:8, I as inserted by section 8 of the bill by replacing it with the following:

I. Issuance of member certificates or stock certificates or both, in the corporation.

Amend the section heading of RSA 292:31 and the introductory paragraph of RSA 292:31, I as inserted by section 14 of the bill by replacing them with the following:

#### **292:31 Abandonment of Stock or Certificate.**

I. Stock or membership certificates in a voluntary corporation, in the absence of bylaws which mandate rules regarding abandonment, which stock or certificates are evidenced by records available to the corporation, are presumed abandoned, and such stock or certificates shall be held by the corporation if the owner within 3 years has not:

**Amendment Adopted.**



Senator Colantuono offered a floor amendment.

SENATOR COLANTUONO: This floor amendment, as I said, corrects the typographical error. It changes the the word member to membership which it should be.

### Floor Amendment to SB 37

Amend RSA 292:8, I as inserted by section 8 of the bill by replacing it with the following:

I. Issuance of membership certificates or stock certificates or both, in the corporation.

Floor Amendment Adopted.

Ordered To Third Reading.

**SB 178**, an act transferring certain account balances to the joint legislative account. Internal Affairs committee. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: SB 178, is a Housekeeping bill. It requires the Commissioner of Administrative Services to transfer inactive accounts that have lapsed into the Joint Legislative account. These are old accounts that should have been closed years ago and so this is sort of a windfall. The committee recommends ought to pass.

SENATOR HEATH: Can you give me some examples of what these windfalls are?

SENATOR PODLES: It tells you on the back by number and I don't know what that is. One minute recess?

Recess.

Out of recess.

Adopted.

Ordered To Third Reading.

**SB 182-FN**, an act relative to the division of information services.

Internal Affairs committee. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: SB 182, extends the Department of Administrative Services moratorium on the acquisition and disposal of computer equipment from June 30, 1991 to 1992. It also extends the termination date of the data processing and computer management study committee from June 30, 1991 to 1992. The committee recommends ought to pass.

SENATOR HUMPHREY: Why is the study delayed, may I ask?

Recess.

Out of recess.

Senator Delahunty in the chair.

PRESIDENT DUPONT: Senator Humphrey, since I am the responsible party I figured that it would be appropriate that I respond. Approximately four years ago we got into an issue about how the Department of Administrative Services leases equipment, utilizing the lease route to circumvent the appropriating process. In other words, they had to sign a contract to lease equipment and dispose of equipment without approval of the legislature body. As a result of that we have undergone a fairly expensive analysis in the computerization of state government trying to accommodate and move down away from the centralized computer facilities towards desk space systems, fairly extensive study which at this point in time is complete, other than the fact that the legislation is now over in the House awaiting action of the House. It was heard this morning. As a result of our concern about the departments undertaking a significant expansion on their facilities at the central facilities by the lease route, this legalization merely extends the moratorium that we put in place for them to expand or retract until such time that the other legislation comes forward. So, not knowing whether that legislation will pass or not, this piece of legislation was put in to prevent them from making any changes till we get a better handle on what they want to do. In all likelihood, if the House legislation is successful this will ultimately die in the House.

SENATOR HUMPHREY: But it's been four years? If I may ask that question?

PRESIDENT DUPONT: No, the study actually has only been a year. Maybe a little bit over a year.

SENATOR HUMPHREY: It has been four years since the Department of Administrative Services has been able to modernize its computer equipment?

PRESIDENT DUPONT: No, that has been ongoing, but this all started with the assigning of approximately \$6,000,000 contract and coming to us after it was all signed and saying we signed this lease and it's in our budget now and we obviously did have a difficult time with that, and that made us make a major policy decision, buy or lease.

SENATOR HUMPHREY: So, the departments ongoing modernization has been handled through ordinary appropriations?

PRESIDENT DUPONT: That is correct.

SENATOR HUMPHREY: Every year?

PRESIDENT DUPONT: That is correct.

Adopted.

Ordered To Third Reading.

**SB 88**, an act permitting independent voters to vote in a primary and change their registration back to independent on the same day of the primary. Public Affairs committee. Inexpedient To Legislate. Senator Bass for the committee.

SENATOR BASS: Mr. President, the committee recognizes the attempt of the sponsors of this bill to make every effort possible to encourage greater turnout at primary elections; however, 659:14 already allows the rules of any party to permit, if they so choose, to allow anybody to vote in their primary, but the parties to date have not chosen to do so. This bill would allow voters in the primary to return to independent status immediately after voting. It is the committee's feeling that this is not really going to help turnout. It already can be done if the party so chooses and the business of the primary is really the business of the parties. We the committee urge your adoption of the report of inexpedient to legislate.

SENATOR HUMPHREY: Mr. President, I think our colleague has said it very well when he says that the business of the primaries is the business of the parties. George Wallace used to say, with sometimes a good deal of truth, if there isn't a dimes worth of difference between the parties. Sometimes that's been true. And there ought to be more than a dimes worth, there ought to be a lot of difference between the parties it seems to me. Public policy ought to be a matter of competition between ideas and it's hard to think of a proposal that would do more damage to that dynamic of competition than to allow anyone to vote in a party primary and then immediately switch back to being an independent. This would render these primaries almost meaningless and thus diminish the competition between parties and the competition amongst ideas. I think it would be a very unfortunate thing and I commend Senator Bass for his statement in opposition to this proposal.

Committee Report Adopted.

Division Vote.

Yeas: 15

Nays: 5

Committee Report Of Inexpedient To Legistate Is Adopted.

Senator W. King opposed to SB 88.

Recess.

Out of recess.

Senator Dupont in the chair.



Senator Cohen is excused today for personal business.

**SB 144-FN-A** an act relative to the Women's War Memorial and making an appropriation therefor. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

**SENATOR BASS:** This bill seeks to appropriate funds for the Department of Military Veterans Affairs to build a Memorial to the women in the military. It would be built on the Virginia side of the Potomac River. The amendment reduces the appropriation from \$15,000 to \$1 in recognition of the importance of the concept. The committee elected to pass the bill and send it to the committee on Finance.

**SENATOR HUMPHREY:** Well, just part of my continuing education: When we hand over to the emperor of the Senate, as distinguished from the President of the Senate, an appropriation, is the Finance committee required to stay at or below that amount?

**PRESIDENT DUPONT:** Senator, for your information the Finance committee can basically include whatever dollars in that bill or in the budget act that they so desire; however, it must come back to this body for an additional vote before it is in fact appropriated. So, this goes down with a \$1, if it comes back with \$5 then the Senate, the full body can vote not to fund it at \$5

**SENATOR HUMPHREY:** Senator Bass, why was this reduced from \$15,000 to \$1? What's going on here?

**SENATOR BASS:** Alright. The committee had a discussion regarding subject to whether or not this was a worthy cause. It was determined on the basis of the testimony that we got during the public hearing that the construction of a Womens Memorial is a timely thing to do, it's part of a National effort that is being mounted by various groups in the country to get small contributions from all the states. At the current time the state of Florida is the only state that has participated to the tune of \$20,000. The committee felt that a \$15,000 appropriation on the part of the State of New Hampshire was maybe a little rich, especially given the budgetary situation that we are faced with right now. However, in recognition of the fact that there is a legitimate interest on the part of the committee in commemorating this, creating this Memorial, the committee felt that maybe a very small token contribution might be in order. That is the story, Senator Humphrey.

**SENATOR HUMPHREY:** What is our function on the floor? I mean aren't committees supposed to advise us of the appropriateness of something, and then we in turn advise the Finance committee of the appropriateness of something?

SENATOR BASS: That is correct Senator Humphrey.

SENATOR HUMPHREY: Instead in this case it looks like we are giving all the authority to Senator Blaisdell.

SENATOR BASS: Senator Humphrey, if I may respond to that question. If it wasn't for the affirmative vote of the committee on Public Affairs, Senator Blaisdell, Senator Hough and the other members of Senate Finance wouldn't be able to give one thin dime to this effort. So, as a result we have determined what the priorities are and we have determined in this situation that this might be a worthy cause, so we have made the policy decision. As far as the appropriation is concerned the committee is unsure of whether or not this really fits in the priorities, budgetary priorities of the state. And that is the reason why we want to have Senator Blaisdell, Senator Hough, and the remainder of Finance take a look at it.

SENATOR HUMPHREY: The Senator used the word may, is this in the opinion of the committee for our benefit, is this a worthy cause or not? I mean the committee has studied it.

SENATOR BASS: The committee feels that this is a worthy cause and that was the substance of my original report to the Senate.

SENATOR MCLANE: Parliamentary question. If the motion is ought to pass with amendment and if I felt that \$1 did not sufficiently convey the sentiments of the committee that this was a worthy cause, would I vote down the amendment and then vote for the bill as originally intended and send that down to Finance as a different signal?

PRESIDENT DUPONT: Senator, the motion before you is the adoption of the committee report, if you disagree with the committee report then you would vote against the committee report and you would then have the ought to pass motion before you on the bill.

SENATOR MCLANE: Thank you, the motion is a committee report which is an amendment?

PRESIDENT DUPONT: That is correct, Senator.

SENATOR MCLANE: Thank you.

SENATOR HOUGH: Senator Bass, I listened to your answer to Senator Humphrey and while that generally is the way policy committees act informing their policy decisions. In as much as you have reduced an appropriation from \$15,000 to \$1 by your amendment and hope that this is referred to Finance would you also agree with me that changing in a negative fashion of the appropriations does not reflect the policy of the committee relative to women and a memorial to those women who have served in the service?



SENATOR BASS: Absolutely, Senator Hough. It does not in any way affect the feeling on the part of the Public Affairs committee and I would assume the same would be true of Senate Finance committee and I would also point out that this committee took a lesson in fact from Senator Hough who has on every single bill that he and Senator Blaisdell have introduced, I believe a sum of \$1 is appropriated so, we learned from good examples.

SENATOR OLESON: I happened to be the sponsor of this bill and I'll tell you why. A small town in my district of Randolph happened to be three women, two of them, one headed up the WAVES and one of them headed up to WACS in the Second World War and one of them is Mildred Hawkins which I think that most of you here are familiar with the University system. She happens to be one of the trustees, one of the very top respected people in the country or in our state, anyways. And they asked me to put this bill in for them. The mere fact that there doesn't seem to be anything in our different parks or Arlington or anywhere else where women are recognized for what they have done in the past several wars and given up there lives many, many times. It has taken the bone in the cave and started off with a certain appropriations for this Memorial to be placed in Arlington cemetery and the site happened to be there at the present time. I appeared and spoke in favor of, it of course in my bill in the wisdom and they did put the amendment down to \$1 and I'll happen to go along with that proposal at the present time and we can have another session with Finance committee and if the funds are available we would like to go along in that direction. One thing that I would like to say to the members here and the whole House in New Hampshire. We have three pictures on the wall of women. Only three. Everything else is cluttered up with pictures of male of one sort or another. Again, this is just a form of recognition to the people who have given their lives in the past several wars and I hope that you honor my motion to send it to Finance where maybe we can reconsider it if the funds are available. Thank you.

SENATOR HUMPHREY: Mr. President, I want to make clear that I don't oppose the bill on merits, I may not even oppose the bill, but a couple things. First of all I know that freshman are suppose to be seen and not be heard and I probably have said more in a week than I should say in a year under that standard, but I think that the people in the 17th district deserve representation just as much as any people in any other district so I am not going to bind myself by that rule. I'll think of it from time to time and try to temper my demeanor; but I am going to speak out when I think I should. I said it last week and I'm not sure what the solution is just yet, but I think that this practice of shipping everything down to the Finance com-



mittee concentrates so much power in that committee that it's unhealthy and I don't think it's a good idea for us to be passing or taking as an example these bills that are denominated at \$1 simply as a way of passing the buck and evading our responsibility in committee and on the floor and giving all the responsibility to the Chairman and all the members of the Finance committee. I think that's a derogation of our duty. I think it's fiscally irresponsible. I think it's a bad way to do business. I hope that we can find a way to improve upon this situation. I am not speaking against the bill, I think it's a very good idea. I think the proposal is overdue. And I want to make this proposal, that will both demonstrate my support of this concept and save the state some money. It's been my observation that in the past at least, I don't know if it's still current policy, but the state has commissioned a painting of those who have represented us in the United States Senate. I don't want a painting. Whatever space might be devoted to this former U.S. Senator should be devoted to some woman who has served this state.

PRESIDENT DUPONT: I would like to respond to Senator Humphrey's remark. Senator, the process again is, that we refer to Finance. This body has a final body when it comes back up from Finance. No member at this point and time is being asked to appropriate any money until such time when it comes back from Finance. It is important that the policy decision be made first which the committee has made. The appropriating responsibilities of Finance are what dictates that the bill goes down there. And as to your portrait, I will reserve my comment on that.

SENATOR MCLANE: I have a parliamentary inquiry. If I wanted to change the figure from \$1 to \$5,000 how would I manage that?

PRESIDENT DUPONT: Senator, you have before you an amendment that appropriates \$1.

SENATOR MCLANE: If I wish to amend that amendment?

PRESIDENT DUPONT: You would be required to defeat the committee amendment if you so desire and substitute a floor amendment that appropriated \$5,000 or you'd have the option of going to Senate Finance and convincing them after the bill was referred down there to appropriate additional dollars.

SENATOR HUMPHREY: Parliamentary inquiry. Mr. President, under the rules is an amendment not amendable?

PRESIDENT DUPONT: Senator you cannot without formally having an amendment drafted and put it before this body at the present time. So again you would need a substitute amendment that would,

if you're just dealing with the amount of the money, would merely change the amount of the money to another amount.

SENATOR HUMPHREY: If, for example, Senator McLane or someone else, further inquiry, had an amendment to this amendment properly drafted, would it be in order?

PRESIDENT DUPONT: If it is properly drafted yes, it would be in order. But again what we are dealing with here is a change of an amount of money, so a substitute amendment, if this amendment passes it would still be open to further amendment at that point in time. So the body has choices at this point time, either to defeat this amendment and bring in another amendment or again refer it down to Finance and let them deal with the dollar amount.

SENATOR HUMPHREY: Further inquiry if I may. What constitutes a properly drafted amendment. Can't a Senator not write on his or her desk, write out an amendment and offer it as an amendment to an amendment?

PRESIDENT DUPONT: Senator, for purposes of facilitating the proper conduct of the body, we usually request that the amendments be made and drafted by Legislative Services so that the whole process is kept in order and I'm not saying that we don't have the ability to do that. If I could finish Senator, when there are multiple amendments floating around without having a numbering system on them it becomes very difficult for the body to keep those straight.

SENATOR HUMPHREY: If I may observe Mr. President, democracy is not an orderly process, and order be damned, we are elected by the people of this state to address the business of this state and we ought to have the right to write out an amendment and offer it as an amendment. Is there a rule prohibiting?

PRESIDENT DUPONT: Senator, we are doing parliamentary procedures at the time, if you do not like the rules of the Senate, we have a Rules committee which meets as it did yesterday afternoon at which time you can address the rules of the Senate at that point. So I would only ask that you allow the body to proceed forward with its business today and we will get on to the process of rules. We will schedule another Rules meeting and you will have the opportunity to amend the Rules. But we are not going to debate Rules on the floor of the Senate today.

SENATOR HUMPHREY: Parliamentary?

PRESIDENT DUPONT: Yes, Senator?

SENATOR HUMPHREY: What Rule is the President, what Rule is the Senate President basing his opinion?



PRESIDENT DUPONT: Senator, I am basing it on the ability of this body to conduct its affairs in an orderly fashion and I am just asking for your willingness to allow us to conduct our business today in an orderly fashion. If you would like I will take a recess for 30 seconds.

Recess.

Out of recess.

PRESIDENT DUPONT: That is not acceptable to the body. The body grants you the ability to amend the bill without having it in writing and in the proper form. And so you have before you now so that the Senate is aware of where we are at, we are on SB 144-FN. It is on the adoption of the committee amendment.

SENATOR HUMPHREY: The President is correct. The difficulty is that the Rule #21 reads that the amendment shall have been reviewed by the office of Legislative Services for form, construction and so on. That's the problem. And that's what I was sort of clarification seeking from the chair, not an appeal for good order, but rather a reference to the Rule. Well the Rule is clear and the President is right. But I would just like to say on the subject that it's pretty darn sorry when the elected representatives are prevented from offering an amendment because they have to run down to the office of Legislative Services. People who aren't even elected. And I think we ought to try to amend this Rule and to improve it.

PRESIDENT DUPONT: Senator, I would only add that from experience on this body when we have fifty bills before us and forty-seven amendments that the process allows us to conduct our affairs in an orderly manner and that Legislative Services is always willing and able to assist us in our work. So, if that does not fit on a given day when we need to do an amendment in a speedier manner than what we have before us, then the act of this body in suspending that Rule will allow us to do that, but given the dictates of what's before us at the present time, I don't believe it is necessary.

SENATOR HUMPHREY: How many votes does it take to suspend the Rules?

PRESIDENT DUPONT: It would take 16 votes, Senator.

SENATOR HUMPHREY: Two-thirds?

PRESIDENT DUPONT: That is correct.

SENATOR HUMPHREY: May I respond? I would just suggest that it doesn't answer the need that we have before us. If a Senator wants to amend something on the floor, he shouldn't either have to secure the permission of 2/3 of his colleagues or somehow get it approved by the office of Legislative Services. There ought to be a better way.



PRESIDENT DUPONT: Senator, if I could respond. The body also usually is very tolerant as demonstrated yesterday when a Senator needs additional time to either have an amendment drafted or refer something back to committee to have an amendment drafted. This body as a matter of tradition, or as a habit of tradition, has always allowed the Senator the ability to do that and that I appreciate your concern.

SENATOR HOLLINGWORTH: This question is to anyone who heard the bill or who sponsored the bill. Have other states passed this legislation and if so, how much have they appropriated?

SENATOR BASS: The only State that has passed this is the State of Florida in the sum of \$20,000.

SENATOR HUMPHREY: May I ask a question of Senator McLane. Although she didn't ask me to do it and probably didn't welcome it, I made those inquiries because of the situation that her inquiry presented. And I'm wondering if she is still desiring to offer an amendment?

SENATOR MCLANE: I've received the assurances of the Emperor of Finance that he will be very amendable to a motion and an amendment which I will present to that committee at the proper time.

SENATOR HEATH: Senate President, when you were talking about a floor amendment you implied by the use of the word or; that if a floor amendment was brought in through the proper drafting and so on that say appropriated \$5,000. Then that would be the set amount on that bill and that it would not be referred to Senate Finance or you could make a case before Senate Finance. Is that a proper interpretation?

PRESIDENT DUPONT: Senator, if an amendment was brought in that appropriated money it would be sent to Senate Finance if that amendment passed.

SENATOR HEATH: So in any case, whether we appropriated an amount of \$1 or the full \$15 or a subsequent amount in between or any other amount, it still goes to Senate Finance?

PRESIDENT DUPONT: That is correct Senator, unless the body so desired to waive the requirement that it be sent to Senate Finance.

Senator Colantuono moved the question.

Adopted.

#### **Amendment to SB 144-FN-A**

Amend the bill by replacing section 2 with the following:

2 Appropriation for the Women in Military Service for America Memorial Foundation, Inc. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 1992, to the Department of Military and Veterans' Affairs for the purpose of providing a grant to the Women in Military Service for America Memorial Foundation, Inc. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

### AMENDED ANALYSIS

This bill appropriates \$1 to the Department of Military and Veterans Affairs to provide a grant to the Women in Military Service for America Memorial Foundation, Inc. The Foundation recognizes the contributions of women who serve or have served in the armed forces.

Amendment Adopted.

Referred To Finance (Rule #24).

**SB 100-FN**, an act relative to simulcast wagering. Ways & Means committee. Ought To Pass With Amendment. Senator Blaisdell for the committee.

**SENATOR BLAISDELL:** All members of the Ways & Means committee voted 7-0 to bring this bill out as ought to pass as amended. We had a lengthy hearing on it and it was supported by the Pari-Mutuel Commission and it raises around, conservatively, around \$200,000. I think the most important thing question asked of the committee at the time, whether or not local control was there. Local control is there by the amendment on page 18. We ask your support and passage of the bill.

**SENATOR ST. JEAN:** Mr. Chairman, could you give to me how much money this is going to bring in and also the effect it tracks that this bill will begin to deal with?

**SENATOR BLAISDELL:** Yes, I will, Senator St. Jean. I think that, conservatively, it was reported by the Pari-Mutuel commission that we could probably raise around \$200,000 by this. It will affect the Belmont track, the Seabrook track and the Hinsdale track by getting the races at in-state races at Rockingham Park telecast of these other tracks so that you can bet on them. We have had that experience in the Hinsdale area, the one that I represent and it's helped to handle quite a bit that the smaller tracks who need some real help, Jim. It's, as you know, the handles are down, but with Hinsdale position when they were 17 percent down, they put in some harness racing and they simulcast some other races and it picked up their

handle and it brought in more revenue for the State of New Hampshire. I think that's not the right figure, I think Rockingham brings in quite a bit now and they simulcast the Breeders Cup and things like that.

SENATOR ST. JEAN: The other track of course is Rockingham that we are affecting in a very positive way, Senator.

SENATOR BLAISDELL: We are affecting them in a positive way, but mostly we are affecting Seabrook, Belmont and Hinsdale Raceway. Because they need it more than anybody.

SENATOR ST. JEAN: Would you believe, Senator, this is another example where the state has been kind to Rockingham Park, would you not believe?

SENATOR BLAISDELL: Well not really, I don't think it's been kind to so much Rockingham Park, but I think what they are doing is in a considerable expense for all the tracks to put these simulcasting out to the different tracks. It really is being kind to the people of the state of New Hampshire because it's going to bring more revenue in. No, I don't think that it's being kind to Rockingham, it's just kind to the New Hampshire people who go to tracks and want to bet on races inside the state. It's not an off-track betting you know. It's just at the tracks we now licensed.

SENATOR HOLLINGWORTH: I would just like to say briefly though I'm usually opposed to this type of legislation particularly when it's to pay for the responsibilities that the state should be paying. Under these circumstances and viewing the facts that we are in such bad financial state, I want to support this legislation because I think that anything and anyway that we can help pay our debts I will support.

SENATOR HEATH: I no longer have a question, it was answered.

### **Amendment to SB 100-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 Sale of Pari-Mutuel Pools. The introductory paragraph of RSA 284:22 is repealed and reenacted to read as follows:

During the calendar years of 1941-1999, a licensee under this chapter may sell pari-mutuel pools in accordance with this chapter and rules adopted by the commission. Pari-mutuel pools shall be sold within the enclosure of the racetrack where a licensed race or race meet is held and not elsewhere, except as provided in RSA 284:22-a. RSA 284:23 shall apply to the type of race on which wagers are made.



2 New Section; Pari-Mutuel Pools on Simulcast Racing. Amend RSA 284 by inserting after section 22 the following new section:

284:22-a Pari-mutuel Pools on Simulcast Racing.

I. In this section:

(a) "State" means the state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the territory or possession of the United States.

(b) "Simulcast" means the receipt of a live transmission of a pari-mutuel event conducted at one racetrack to the racetrack of a licensee on which pari-mutuel event the licensee will sell pari-mutuel pools.

(c) "Licensee" means any individual, association, partnership, joint venture, corporation, or other organization or other entity which holds a license under RSA 284 to conduct a race meet.

II. During the calendar years 1941-1999, a licensee under this chapter and subject to RSA 284:22-a, III, may sell pari-mutuel pools on races held at racetracks other than the racetrack at which the licensee conducts its race meet, provided:

(a) Such sales are within the enclosure of the racetrack at which the licensee holds a license for the current year to conduct live racing in this state;

(b) Wagers are made on races which are exhibited by television or other means of electronic reproduction at the licensee's racetrack simultaneously with the conduct of each such race at its point of origin; and

(c) The licensee conducts live racing on the day on which the licensee simulcasts.

III. A licensee may sell pari-mutuel pools on races held at other appropriately licensed racetracks, whether such racetracks are in the state of New Hampshire or outside the state of New Hampshire. A licensee may sell pari-mutuel pools under RSA 284:22-a on the same types of races that it conducts live at its racetrack with the approval of the commission. A licensee may sell pari-mutuel pools under RSA 284:22-a on types of races other than the type of races conducted live at the licensee's racetrack provided:

(a) The licensee obtains the approval of the commission; and

(b) The type of racing which is to be simulcast has been approved by the city or town in accordance with RSA 284:17 prior to or subsequent to the effective date of this section or the acceptance of wagers on simulcast races of a type other than the type of racing which the licensee conducts live is approved by majority vote at an annual town meeting or a special town meeting called for such purpose.

IV. Notwithstanding the provisions of RSA 284:22-a, II(c), a licensee may simulcast on a day on which live racing is scheduled at the licensee's racetracks, without conducting live racing provided that the live racing program is cancelled due to weather or other conditions which produce unsafe conditions at the racetrack of the licensee. The determination to cancel a live program based upon weather or the condition of the racetrack shall be made by the licensee, and notice of the cancellation shall be provided to the commission.

V.(a) A licensee may sell pari-mutuel pools for simulcast races for races held at racetracks within the state of New Hampshire in accordance with RSA 284:22-a, II, within the enclosure of said licensee's racetrack or a licensee, with the written agreement with the licensee which conducts the race which is to be simulcast, may sell a common pari-mutuel pool in conjunction with the licensee which conducts the race which is to be simulcast. In the event of common pools, the licensee which conducts the race shall pay the tax required under RSA 284:23 for the portion of the common pool actually contributed at said licensee's racetrack and the licensee which simulcasts shall pay the tax due under RSA 284:23 for the portion of the common pool actually contributed at said licensee's racetrack.

(b) A licensee may sell pari-mutuel pools for simulcast races for races held at racetracks outside the state of New Hampshire in accordance with RSA 284:22-a, II, within the enclosure of said licensee's racetrack or said licensee, with the written agreement with the entity which conducts the race which is to be simulcast, may sell a common pari-mutuel pool in conjunction with the entity which conducts the race which is to be simulcast. In the event of such common pools, the commission shall be in the amount established by the law of the state in which the race to be simulcast is actually conducted, provided, however, the licensee shall pay the tax as provided under RSA 284:23.

VI. Racing officials, as defined in the rules adopted by the commission, any employee or owner of the entity which provides the totalizator system to the licensee, and any person responsible for the operation of the electronic reproduction equipment which receives the simulcast shall be prohibited from participating in wagering, directly or indirectly, on simulcast races shown at the licensee's racetrack.

VII. The provisions of RSA 284:15-c, RSA 284:16-c and RSA 284:17 shall not apply to simulcast and pari-mutuel pools under RSA 284:22-a, except as specifically provided in RSA 284:22-a.

VIII. RSA 284:23 shall apply according to the type of race on which the simulcast wagers are made. RSA 284:22, I, II, III, and IV shall apply according to the type of race on which the simulcast wa-



gers are made, excepting, however, interstate common pools as provided in RSA 284:22-a, V(b) and that the provisions made for purses made in RSA 284:22, I shall not apply to simulcast races. The commission on simulcast race pools shall be available to the simulcasting licensee to satisfy obligations to the racing association originating such simulcast races or to the horsemen's group of such association.

3 Restriction on Gambling. Amend RSA 284:17-c to read as follows:

284:17-c Restriction on Gambling. Notwithstanding any other provision of law, except as provided in **RSA 284:22-a** and in the introductory paragraph of RSA 284:22, no licensee who holds running horse races shall at the same facility hold any other kinds of races or permit any other type of gambling except harness horse races and activities licensed by the sweepstakes commission.

4 Reference Added. Amend RSA 284:12, IV to read as follows:

IV. The sale of pari-mutuel pools as authorized under RSA 284:22 and **RSA 284:22-a**.

5 Powers and Duties of Commission. Amend RSA 284:6-a, III to read as follows:

III. The pari-mutuel commission shall have all the powers, duties, and rights conferred upon state commissions under the United States Interstate Horseracing Act of 1978 **as it currently exists and as it may be amended from time to time**.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill allows racetrack licensees to simulcast races, different from the type of live races they conduct, with the approval of the city or town in which the licensees' track is located.

The bill also allows races to be simulcast which are conducted on tracks outside of New Hampshire, as well as within New Hampshire.

The bill also addresses the tax liabilities between the track at which a race is conducted and the track at which a race is simulcast.

Amendment Adopted.

Ordered To Third Reading.

**SB 129-FN**, an act requiring that all cigarettes be tax-stamped within the state and establishing a study committee on sale and distribution of cigarettes. Ways & Means committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: Apparently, there are about 40 of these people who stamp cigarettes and about eight of them are in the state of New Hampshire right now. The issue came up as to whether or



not it meant New Hampshire jobs in terms of people not being able to stamp the cigarettes. Some people are opposed to the issue because they felt that it would do away with a competitiveness of buying these things out of state already stamped. Other people raised issues that perhaps maybe we are not getting all the revenues we could or making jobs in New Hampshire by requiring that they be stamped in New Hampshire. The other part talked about people just being able to set up a store front here and stamp the cigarettes here and then sell them. There was an issue of a higher question of the competitive part and the higher price part. But in essence, the committee after hearing these pros and cons felt that the matter should be looked into further, so we recommend the amendment to study it a little bit further and come back with a recommendation after a thorough investigation of what it's going to do to the revenues and the job situation relative to New Hampshire. So I urge that you accept the committee amendment.

#### **Amendment to SB 129-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a study committee on sale and  
distribution of cigarettes.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee to Study Sale, Taxation, and Distribution of Cigarettes; Duties.

I. There is established a committee to study the system of distribution of cigarettes in New Hampshire, including per capita trends. The committee shall also study competitive aspects of cigarette sales between states. The committee shall study laws relative to cigarette sales in general, and in particular pricing, taxation and statutory restriction on sales. The committee shall also study the feasibility of requiring tax stamps to be affixed within the state of New Hampshire.

II. The committee shall consist of the following:

(a) One member of the house ways and means committee, appointed by the chair of such committee.

(b) One member of the senate ways and means committee, appointed by the chair of such committee.

(c) One member of the senate finance committee, appointed by the chair of such committee.

(d) One member of the house regulated revenues committee, appointed by the chair of such committee.

(e) Two cigarette distributors, one of whom shall be appointed by the senate president and one of whom shall be appointed by the speaker of the house.

(f) Two members representing the general business community, one of whom shall be appointed by the senate president and one of whom shall be appointed by the speaker of the house.

2 Meetings; Chair; Mileage. Appointments to the committee shall be made within 30 days of the effective date of this act, and the first meeting of the committee shall be held within 60 days of the effective date of this act. The chair of the house ways and means committee shall call the first meeting. The committee shall elect a chair at its first meeting. Members of the committee shall receive no compensation, except that legislative members shall receive mileage at the legislative rate.

3 Report. The committee shall make an interim report on its study to the governor, the senate president and the chairperson of the legislative committees represented on the study committee 6 months after the effective date of this act. The committee shall make a final report, including its findings and recommendations for legislation to the governor, the senate president and the chairpersons of the legislative committees represented on the study committee within one year of the effective date of this act.

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

The bill also establishes a committee to study the sale, taxation, and distribution of cigarettes in this state.

Amendment Adopted.

Ordered To Third Reading.

### MOTION TO VACATE

Senator Oleson moved to **vacate SB 73-FN**, relative to motor vehicle plates and registrations from the committee on Transportation to the Judiciary Committee.

Adopted.

Recess.

Out of recess.

Senator Delahunty in the chair.

### INTRODUCTION OF A RESOLUTION

**President Dupont offered a Resolution. SR 4, Concerning FDIC Chairman L. William Seidman and the FDIC.**

## SR 4

## STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand  
nine hundred and ninety-one

## A RESOLUTION

concerning FDIC Chairman L. William Seidman  
and the FDIC

Whereas, the state of New Hampshire has been, for too long, in the icy grip of a severe "credit crunch;" and

Whereas, the economy of the state has been adversely affected by the diminution of capital in many of New Hampshire's larger banking institutions; and

Whereas, a timely infusion of needed capital is essential to the stability of the state's banking system and thus, in turn, to our overall economy; and

Whereas, New Hampshire's Governor Judd Gregg has sought assistance at the federal government level and has requested FDIC consideration of a capital infusion program which will not require federal takeover or federalization of banking assets and will allow for the stabilization of our economic situation; and

Whereas, FDIC Chairman L. William Seidman has publicly expressed his willingness to consider and support appropriate open bank assistance proposals by state financial institutions in need of same; now, therefore, be it resolved by the senate:

That the senate hereby recognizes, commends and salutes FDIC Chairman L. William Seidman for his sensitivity to the condition of our state's economy, his responsiveness as a federal official to the needs of this state, and his willingness to select and trust New Hampshire as a place in which the seeds of a pilot program for the nation can be planted, take root and grow strong.

Adopted.

Recess.

Out of recess.

Senator Dupont in the chair.

## ANNOUNCEMENTS

SENATOR DISNARD (Rule #44): One month ago, the governor listed his three priorities which were the banking credit crunch, the state's economy and the biennial budget. He has done a good job in confronting the banking crisis and we applaud him for taking active steps to free up investment capital. On the second two issues his



record is mixed. Today's budget proposal ties together those issues and lacks an aggressive approach to moving New Hampshire out of its current economic crisis. As Democrats we too have priorities. Some are similar to the Governor's and some are quite different. Jobs, the most important function of government is to provide a solid economic climate. While I support the Governor's Capital Budget proposal we can do more to stimulate the economy and put our citizens to work. One of the current Capital Budget requests for 94 million new programs, only 60 million is from state dollars. This is about the same as last year. There is clearly an opportunity to increase projects through bonding and federal matching funds in no increase to taxpayers to provide jobs for our citizens. Economic development, it is not acceptable to merely level funds our Economic Development & Divisions promotion and business recruitment programs. New Hampshire is in one of the most worst recessions in half of a century and the state must take a leading role in these efforts. This Senate has taken a positive bipartisan stand toward expanding economic development and we expect the Governor to follow suit. We must provide jobs, we must provide opportunity, education. We support, strongly support, the level funding concept of foundation aid. It is an important addition to local funding of education. We strongly oppose the devastating cuts to higher education funding. It is not acceptable and it so significantly reduced the state's role in assisting our children and providing for the higher education. An honest assessment of the economy. Finally, the people of the state want to know where we are financially. The figures that the Governor has proposed expect an immediate up-turn in the economy on a significant tax increase. They appear to be inflated. Therefore, I will propose to the Senate Finance committee a revenue estimated conference, suggest to establish a conference which would include the Governor, State President, Speaker of the House and a leading Economist from our University System who together would put forth a unanimous production of revenue based on facts, free from politics and they should meet on a periodic basis. Conclusion, Senate Democrats are committed to working with the Governor and Senate Republicans to address the problem our state faces in a cooperative and constructed manner. There is much in the Governor's budget which is commendable, but there are portions which are clearly unacceptable. The Governor's message is the beginning of what I hope will be a bipartisan and fruitful process. Thank you.

SENATOR HUMPHREY (Rule #44): Parliamentary inquiry Mr. President. Is there a portion of the session that's devoted to announcements, is this the time when Senators are free to make small speeches, such as Senator Disnard?

PRESIDENT DUPONT: Yes, it is Senator, Senator the Rule is #44 which is personal privilege.

SENATOR HUMPHREY: Oh, I see. I didn't realize that Rule #44 had such a broad purpose. I thought it was only when someone was offended by something.

PRESIDENT DUPONT: We allow a certain amount of liberty in that matter.

SENATOR HUMPHREY: Good. In any event I feel that someone should respond to Senator Disnard's remarks, well meaning, but which I don't agree in whole. I thought that the Governor delivered a splendid speech. Full of vigor and vinegar and hard-nosed realism. I think he's taking a very aggressive approach to the states fiscal problems. Proposing to level fund our departments, that is a very tough agenda for him and he said he's willing to take the heat, by the way. We can all duck under the umbrella of Joint action, but he is going to be singled out whether he wants to or not and he's willing to take the heat. I think that takes real courage. And as for these old worn out Democrat socialist notions that we ought to create, make work jobs to pull ourselves out of a nation-wide economy, I think history rebuts such arguments more effectively than I could.

### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, February 19, 1991 at 1:00 p.m.

Adopted.

Senator Currier moved to adjourn until Tuesday, February 19, 1991 at 1:00 p.m.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage

**SB 37**, an act relative to amending provisions of the voluntary corporation statute.

**SB 83**, relative to the investment of public funds.

**SB 100-FN**, an act relative to simulcast wagering.

**SB 129-FN**, establishing a study committee on sale and distribution of cigarettes.

**SB 152**, an act relative to a joint New Hampshire-Quebec trade council.

**SB 178**, an act transferring certain account balances to the joint legislative account.

**SB 182-FN**, an act relative to the division of information services.

Senator Currier moved to adjourn.

Adopted.

Adjournment

*February 19, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Lord, send us peace in our time. Protect our men and women in The Persian Gulf war. There is a possibility of an invasion soon of Baghdad and Kuwait with loss of many lives. Help them Lord, as well as ourselves as we here face our own economic woes!!! Good Luck!!!*  
*Amen.*

Senator Cohen led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### COMMITTEE REPORTS

**SB 78-FN**, an act relative to loans to municipalities from state revolving loan funds. Banks committee. Ought To Pass With Amendment. Senator Pressly for the committee.

**SENATOR PRESSLY:** This bill provides that the terms of repayment by a municipality of loans from certain state loan funds shall be governed by the law establishing and administering the loan fund. Municipalities may capitalize interest on such loans in certain circumstances. The bill further provides that authenticating certificates shall no longer be required on any bond, note or other document evidencing a state water pollution control fund loan. A hearing was held on this bill. It was unanimous in support and the committee voted unanimously ought to pass.

### Amendment to SB 78-FN

Amend the bill by replacing all after section 1 with the following:



2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted.

Ordered To Third Reading.

**SB 92**, an act relative to collateral on personal guarantees of business loans. Banks committee. Inexpedient To Legislate. Senator Disnard for the committee.

**SENATOR DISNARD:** The committee recommended inexpedient to legislate for the following reasons. The sponsor withdrew sponsorship, no one spoke for or against the bill.

Committee Report Adopted.

**SB 150**, an act relative to partnerships and relative to foreclosures.

Banks committee. Ought To Pass With Amendment. Senator Fraser for the committee.

**SENATOR FRASER:** This bill actually has three parts Mr. President. Number one is a section which clarifies an illegal proceeding for partnership. The issue of venue is now under the bill we had the same conation as if it was a corporation or an individual. Apparently, there is some clout in the law as to what the actual venue in a partnership would be. Part two in a foreclosure sale Mr. President, the bill would require no longer that the original copy of the deed would have to be reviewed. Normally this deed is probably in a vault somewhere in safekeeping. A true copy of the deed is always on file at the registry of deeds so it was recommended by the sponsor that this be eliminated from the law, it's not necessary. Part three of the bill Mr. President, is probably the most important feature of the bill. What happens in foreclosure sales is quite often that the lienholder refuses to accept certified mail which would be a notice of the pending foreclosure sale. What would often happen would be that just prior to the sale taking place, that person who would be serviced determine that he hadn't been properly noticed and they would have to start the process all over again. Quite often what happens is that there is two and three month delays thereafter during which time the delinquent mortgagor would have a free ride, so the bill now addresses this issue and if the addressee should frustrate the effort to be noticed or refused to accept the certified notice, if it's proven that he did in fact refuse to accept the notice of the pending foreclosure sale and that's the essence of the rule, Mr. President.

**SENATOR NELSON:** I just have a question on page two and I didn't know if this was part of the amendment on page six. I just didn't understand the language.

O.K. So I just want to make sure that I understand what you said. You were replacing the language on page two of the bill about the frustrates of attempts with the language that's in there. Thank you. I was just curious in the committee hearing what frustrates meant, that's what I didn't see in here. Frustrates attempt by mortgagee, what does frustrates mean, in legal sense?

SENATOR FRASER: In efforts by the Postal Department to deliver the notice, by notice. What happens effectively is that they will send out a certified letter and if it's refused the Postal Department will send it again and again and again and they will finally return it to the addressor. By that time the sale is imminent and I think what the word frustrates means is that it's the unsuccessful effort by the Postal Department to deliver the certified note.

SENATOR NELSON: Was it not possible to state that in the law, rather than this open thing of frustrates, not knowing what actually, not really being defined. Did it not come up in the hearing?

SENATOR FRASER: No, it didn't.

SENATOR NELSON: Oh, O.K. Thank you.

### Amendment to SB 150

Amend the bill by replacing all after the enacting clause with the following:

1 Residence of Partnerships and Corporations. Amend RSA 502-A:16 to read as follows:

502-A:16 Venue in Civil Causes. Actions shall be returnable to the district court of the judicial district where either plaintiff or defendant resides; except that actions arising under RSA 540, relative to actions against tenants, may also be returnable in the judicial district in which the real property in question is located. **For the purposes of this section, a partnership or a corporation shall be deemed to reside in any judicial district in which it maintains an office of place or business.**

2 Junior Lienholders. Amend RSA 479:25, II to read as follows:

II. A copy of said notice shall be served upon the mortgagor or sent by registered or certified mail to his last known address or to such person as may be agreed upon in the mortgage at least 25 days before the sale. The term "mortgagor" shall include the mortgagor or the then record owner of the premises. Like notice shall be sent to any person having a lien on the premises of record, provided that the lien is recorded at least 30 days before the date of the sale in the registry of deeds for the county in which the property is situated. The notice shall be sent not less than 21 days before the sale. Such



notice of sale shall be sufficient if it fully sets forth the date, time, and place of sale; the town, county, street or highway and street number, if any, of the mortgaged premises; the date of the mortgage; the volume and page of the recording of the mortgage; [the location where the original mortgage instrument may be examined;] and the terms of the sale. **Any mortgagor or record lienholder who refuses to accept or claim mailed or served notice or who frustrates attempts by the mortgagee to give notice of the sale by failing to give or leave a forwarding address or by other act or omission shall be deemed to be notified of the sale.** Notice of the sale as served on or mailed to the mortgagor shall include the following language:

"You are hereby notified that you have a right to petition the superior court for the county in which the mortgaged premises are situated, with service upon the mortgagee, and upon such bond as the court may require, to enjoin the scheduled foreclosure sale." Failure to institute such petition and complete service upon the foreclosing party, or his agent, conducting the sale prior to sale shall thereafter bar any action or right of action of the mortgagor based on the validity of the foreclosure.

3 New Paragraph; Limitation on Claims. Amend RSA 479:25 by inserting after paragraph II the following new paragraph:

II-a. No claim challenging the form of notice, manner of giving notice, or the conduct of the foreclosure sale shall be brought by the mortgagor or any record lienholder after one year and one day from the date of the recording of the foreclosure deed for such sale.

4 Validity of Sale. Amend RSA 479:26, II to read as follows:

II. Failure to record said deed and affidavit within [the statutory period] **60 days after the sale** shall render the sale void and of no effect [if there are] **only as to** liens or other encumbrances of record with the register of deeds for said county intervening between the day of the sale and the time of recording of said deed and affidavit.

5 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted.

Ordered To Third Reading.

Senator Nelson, in opposition to SB 150.

**SB 207-FN**, an act relative to notification of employee bargaining units prior to introduction of legislation amending the retirement statutes.

Internal Affairs committee. Inexpedient To Legislate. Senator St. Jean for the committee.



SENATOR ST. JEAN: Mr. President, and members of the Senate, this piece of legislation we found is not needed because the state employees and the Troopers Association have worked things out in the interim after the time this piece of legislation was filed. So as a result we feel it was needed to be killed.

Committee Report Adopted.

### MOTION TO RATIFY

Senator Delahunty moved to ratify action whereby we scheduled, and advertised a hearing on HB 51-FN in the Senate Calendar before the formal introduction of the bill in the Senate.

Adopted.

**HB 51-FN**, an act relative to the normal contribution rate for retirement system members and establishing a committee to study retirement system benefits and making an appropriation therefor. Joint committee on Insurance and Finance. Ought To Pass With Amendment. Senator Delahunty for the committees.

SENATOR DELAHUNTY: On November 13, 1990 the trustees of The New Hampshire Retirement System certified new employee contribution rates which resulted in a dramatic increase in the amount of money paid in the system by employers. This increase needed to fund the system raised retirement cost to the state and the communities from \$31.2 million to \$79.4 million, an increase of \$48.2 million. From the moment that these two rates were announced communities throughout the state became concerned with the impact that these new rates would have on the property tax rates. After meetings between legislative leadership and the Retirement System it was determined that the system had been torn and that the present funding method and that a new method was needed to carry the system forward from this point. By accomplishing this change, the previously certified increases could be litigated. HB 51, effectuates this change in method and sets up the funding assumptions for it. However, the assumption set forth of this bill are merely a holding action. For this legislation also creates a study committee that will take an in in-depth look at the many options available to us for funding assumptions and will report the conferred permanent rates back to us next session. The Senate and the Insurance, Finance committees did change the assumptions from those approved by the House. Under the House version the interest discount rate was set at 10 percent and the salary increase assumptions were set at 7 percent for both Groups I & II. The cost of this package to the state and our communities are \$27.3 million. These figures provided

by the system actually place a contributions of group to Fire and Police below those payed in 1991. The Senate amendment splits out Group I and Group II and assigns each a different set of assumptions. Under our amendment, Group I would retain the 10.7 assumptions, but Group II would be changed to 8.6. This change by the Senate increases the cost of the program \$9.8 million over the House version for a total cost of \$37.1 million. While the House version may look initially because it would cost less, it is somewhat deceiving. It is the feeling of the committee that the 10.7 figure is not only low and as a result of the arbitration subsequent years will again see us lightening these rates to make up for this initial shortfall. The Senate version, however, will allow for a more even and predictable rate of growth, best avoiding extreme irregularities and contributions rates from accruing. In essence, the Senate Insurance and Finance committees believe that it was best not to raise the hopes and expectations of our communities by adopting overly deflated funding assumptions merely to reduce the impact for one year. We are therefore asking you to spend more money than the House, but I would ask that you do look at the long term effects of this action and realize that it's best to be realistic. Even if it initially is somewhat more expensive and remember, even the cost of our version is \$42.3 million cheaper than the rates announced on November 13. Thank you.

### **Amendment to HB 51-FN**

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. The normal contribution rates for each member classification in the New Hampshire retirement system shall be determined using the aggregate funding method reflecting both current and anticipated future members of the retirement system. The actuary shall determine the normal contribution rates as follows:

(a) For group I, the actuary shall employ an interest discount rate of 10 percent, compounded annually, and salary increase assumptions which shall average 7 percent annually.

(b) For group II, the actuary shall employ an interest discount rate of 8 percent, compounded annually, and salary increase assumptions which shall average 6 percent annually.

Amend the introductory paragraph of paragraph II of section 1 of the bill by replacing it with the following:

II. For the fiscal year ending June 30, 1992, the amount credited to the special account, RSA 100-A:16, II(h), shall be determined as follows:

Amend the bill by replacing section 3 with the following:



### 3 Membership.

#### I. The committee shall consist of 10 members, as follows:

(a) Three members of the house executive departments and administration committee, appointed by the speaker of the house.

(b) Two members of the house appropriations committee, appointed by the speaker of the house.

(c) Three members of the senate, appointed by the president of the senate.

(d) The chairman of the senate insurance committee.

(e) The chairman of the senate finance committee.

#### II. The committee shall elect a chairman from among its members.

Amend the bill by inserting after section 4 the following and re-numbering the original sections 5 and 6 to read as 6 and 7, respectively:

### 5 Certification by Executive Secretary.

I. The provisions of this section shall apply for the fiscal year ending June 30, 1992, notwithstanding any provision of RSA 100-A:16, III(c) to the contrary. The executive secretary of the New Hampshire retirement system shall, within 3 days following the effective date of this act, certify to each employer, other than the state, the percentage rates of contribution due the system from each such employer resulting from the passage of this act. Following the certification by the executive secretary, the board of trustees shall assess upon each such employer such percentages of the earnable compensation of members in its employ, and it shall be the duty of the treasurer or other disbursing officer of each such employer to pay to the board of trustees such portion of the annual amount so assessed at such times and in such manner as the board of trustees may prescribe. Each such employer is hereby authorized to appropriate the sums necessary for the payment of such assessments for the purposes of this section.

II. Notwithstanding the provisions of RSA 100-A:16, II(d) or any other provision of law to the contrary, the normal contribution rates for each member classification in the New Hampshire retirement system for the fiscal years ending June 30, 1992, and June 30, 1993, as certified by the board of trustees on November 13, 1990, shall not take effect, and the provisions of paragraph I shall instead apply.

## AMENDED ANALYSIS

This bill changes the way the normal contribution rates for each member classification in the New Hampshire retirement system shall be determined for the fiscal year ending June 30, 1992. The bill requires the executive secretary of the retirement system to certify



to each employer, other than the state, the percentage rates of contribution which each employer must make as a result of the change in the normal contribution rates.

The bill also establishes a committee to study retirement benefits relative to:

- (a) Funding methodology.
- (b) The defined benefits plan.
- (c) The defined contributions plan.
- (d) Membership eligibility.
- (e) Compensation.
- (f) Income averaging for final compensation purposes.
- (g) The availability of a cost of living adjustment for 1992.

The study committee is funded by a \$100,000 appropriation from the retirement system administrative account. Of this sum, \$40,000 may be expended by the committee without any prior approval, and \$60,000 may only be expended subject to the prior approval of the fiscal committee.

Amendment Adopted.

Ordered To Third Reading.

Senator Heath (Rule #42).

**SB 34-FN**, an act requiring parental notification before abortions may be performed on unemancipated minors. Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the Majority.

Inexpedient To Legislate. Senator Hollingworth for the Minority.

**SENATOR COLANTUONO:** The committee report on SB 34, the Judiciary committee felt that it's important first of all, or at least the majority felt that it's important to first of all to point out what this bill is not. It's not a parental consent bill and there is a big difference. This is not a bill that takes away any minors right to choose anything. This bill is fundamentally a bill that guarantees parents legitimate right to know what is happening to their child. Brief legal background, it required the introduction of this bill. At common law a parent was the natural guardian of his or her child up until the age of majority and had the right to care, custody and control and to be involved in the major decisions of that child. That common law right has been written into Constitutional decisions where both the New Hampshire Supreme Court and the United States Supreme Court on many occasions has found and ruled that right is part of the right of privacy, that it adheres in the right of being a parent. Then in 1973 when the Roe versus Wade decision came along and decreed that there was a similiar right of privacy of a woman to choose to have an

abortion there created a conflict between those two recognized Constitutional rights. Following the Roe versus Wade decision some states passed parental consent laws which were subject to challenge and the result of those early cases back in the 70's established that, the Supreme Court established that no state may enact a law which gave an arbitrary veto to a parent. But otherwise, states could enact reasonable parental involvement laws that had restrictions that would stand Constitutional muster. Since that time thirty-eight states out of the 50 have passed parental involvement laws in this country, New Hampshire has not done that yet. Last year in 1990 The United States Supreme Court heard cases from Minnesota and Ohio called Hodgson versus Minnesota and Ohio versus Akron Center for reproductive health. Which made it clear that single parent notification laws like this bill are completely Constitutional and the policy reasons were stated by Justice O'Connor, the courts only female Justice and if my memory serves me correctly, a mother of five herself. When she stated, mother of three, I am corrected. When she stated that when in the Hodgson decision that parental notice and consent are qualifications that typically may be imposed by the state on a minors right to make important decisions. As immature minors often lack the ability to make fully informed choices on account of immediate and long range consequences a state reasonably may determine that parental consultation often is desirable and in the best interest of the minor. Inexperience, less education and less intelligence make the teenager less able to evaluate the consequences of his or her conduct. While at the same time he or she is much more apt to be motivated by mere emotion or peer pressure than is an adult. Minors are treated differently from adults in our laws which reflects the simple truth derived from communal experience. That juveniles as a class have not the level of maturation and responsibility that we presume in adults and consider desirable for full participation in the rights and duties of modern life. Now what this bill does is require that before any doctor performs an abortion on an unemancipated minor, emancipated minors are outside the scope of this bill, a 48 hour notice must be given or at least an attempt to give the notice must be given to one parent only, not both parents. However, if the child for any reason does not wish to have a parent notified, and it can be any reason whatsoever, good or bad or indifferent, she can get a waiver from a court in a free, expedited, confidential judicial proceeding in a district or municipal court of this state. This is the so called Judicial by-pass provision, which the Supreme Court has said is totally Constitutional. This by-pass provision clearly does not take away what some might call a persons right to choose. Also, the notice is not required in an emergency situation where a doctor certifies that the abortion has to be done without the notice or with-



out the waiting period. And also, the notice is not required when a parent or guardian already knows about the procedure. Therefore the committee majority recommended ought to pass for six reasons. First of all this bill plugs a hole in the existing law and the existing area of confusion relative to the Constitutional rights. Secondly, it upholds as a matter of public policy the important right of New Hampshire parents to know what is happening within their families. It makes a policy statement that we as legislators recognize that the family is the bedrock of our society and we should do everything possible to strengthen and sustain it. Number three, by fostering consultation, this bill protects children from what Justice O'Connor referred to as their immaturity, lack of experience and vulnerability to peer pressure. Fourth, this bill is fully Constitutional and consistent with our 200th plus year tradition of respect for parental legal rights. It contains all of the safeguards set out in all of the United States Supreme Court cases in this area. Five, this bill would bring New Hampshire into line with the 38 other states in this country who have some type of parental involvement laws. Sixth and finally, it responds to the constituents who want to see in the law, respect for a parents right to know. Public opinion polls time after time show overwhelming support for such laws. In June of 1990 a CBS New York Times poll showed that 84 percent of the public in this country favors single parent notification laws and only 12 percent opposed those laws. Parents in New Hampshire cannot understand how a child cannot have his or her tooth filled, have his or her ears pierced, have an aspirin dispensed at school without their knowledge, but can have this other serious medical procedure performed. Therefore the committee majority encourages our colleagues to join with the vast majority of legislators in other states who have already passed such modest proposals to protect parental rights. Thank you.

SENATOR HOLLINGWORTH: As a parent and legislator I understand the intention of this bill. It's a well intended bill. It attempts to foster better communications between a family which is a very serious matter and at one point I supported this type of legislation. But after thoughtful discussions with children, young women, experienced people in the medical profession and others, I have come to the conclusion that this legislation is not the proper way to gain the family communications. As it stands now, 85 percent of our young women seeking abortions do communicate with their family and they do so without legislation. They do so because they feel that they are able to communicate to their parents. There is a small segment of 15 percent who do not feel that they are able to communicate and this flaw would be to address that 15 percent. In other states where this law has passed, half of those 15 percent have gone



to court and the court has been unanimous across the board that they could proceed with the abortion. The other half of that percent has left and received an abortion illegally or out-of-state. This will not foster communications between a parent. The minority finds that the notification process is flawed. It's flawed in the fact that it doesn't take into consideration that 85 percent of children or young women that apply for an abortion have already communicated and in fact it does not leave them any place to go, but to wait at home for the doctor or the agent to show up or the mailman to show up even though they have already received permission from their parents. There's nothing in this legislation to address that 85 percent. We also find that the process of notification has not been addressed as to who will pay for that notification. It is also very difficult and sometimes impossible under that notification to perform it. The court override is illogical because the only ones that it would address would be the immature young women. In all of the cases the court would rule that if she was mature she could go forth with the abortion. Then we are placed with the Judge who has to determine what is in the best interest of the minor, an immature minor. Should an immature minor be, then, a parent. Particularly in the case where that immature minor has not been able to go to a parent and does not have the support of a parent. How could that immature child possibly be responsible to raise that child or is the state going to force her to give the child up for adoption. Are we going to open that door next. The parent, patient, and doctor confidentiality is crucial and yes, we do receive notification from a parent that they will have their childrens ear pierced, and tooth drilled, but none of those things are the same as those confidential things that we now hold out to be confidential, like those birth control pills, sexually transmitted diseases. Those confidentiality areas have been kept confidential because we feel that it is extremely important that the young women or patient be able to go to a doctor without fear of the disclosure of what they have being brought to their families. We would cause them in some cases to self-induce pregnancies, to suicide and to leaving home. That is not how to build a family block. The right of a parent, I hear this repeatedly and I understand them and I feel that I have a right as a parent as do I believe the rest of you here, because I think you're all good parents, but to say that you have a right is true. You have a right to pay attention to your children, to hear them, and I say that you would all know well in advance, you would all know well in advance before the decision to have an abortion was made. Your children would come to you with the statement that they thought they were pregnant and ask for your assistance and help because they know that you're understanding and loving parents. The small majority that we are talking about are the children and young

women who do not have that support and the court and the legislature are not the place for them to get that support. Right now doctors do talk to their patients. They do ask them to seek counsel of their parents. I can tell you that I had one personal experience with a young lady whose mother, during the heated divorce they were proceeding through repeatedly, told her that she was the cause of this terrible divorce that was taking place, and then many months later when the mother attempted suicide and three months after when she came out of a coma her first words to her daughter was: "if it wasn't for you, and my having to get, married, I wouldn't be here today and why couldn't you let me die". Several months later this young girl having looked for love in all the wrong places, found herself pregnant. There was no way she could turn to that parent and there was no father that was there for her to turn to. She had enough pain in her life and she did not have to appear before a judge to prove that she was mature. Believe me she had grown in her maturity far beyond some of us will ever see in our life-time. This legislation does nothing. It makes us feel good maybe to say that we are up-holding the family block, but in reality we all know in our hearts the only way to bring a family and to be a family is to communicate as a family and insure to your children that they can trust you no matter what they tell you and that you will be there for them. We find that this legislation is unneeded and I ask you not to support passage.

SENATOR HEATH: Senator Hollingworth, you have layed a good deal of your arguement on these figures of 85 percent of the minors confronted with the crisis pregnancy to consult a parent. I wondered if you could give me, let's say I am a little bothered by that figure, but I am a little, well, in disbelief of it and I wonder if you would tell me the source and the methodology of arriving at that figure?

SENATOR HOLLINGWORTH: I can't tell you exactly where I have read it, but I have read it several times in several pieces of literature that I have received, yes some of them certainly you would say were from the other side. But I have read it in several different state reports coming from Minnesota and Massachussetts that those are the numbers that they find that the young people would have and will go to the parents is 85 percent.

SENATOR HEATH: Senator, I wonder if in the future I know this debate is not going to be over today, if you would be able to get me the source of the methodology of those figures. I would be interested in it.

SENATOR HOLLINGWORTH: I would be glad to Senator.



SENATOR HEATH: Thank you.

SENATOR HUMPHREY: Parliamentary inquiry first, Mr. President. The first vote will be on the committee amendment, is that correct?

PRESIDENT DUPONT: That is correct, Senator.

SENATOR HUMPHREY: And if it is order, then the subsequent votes will be on what?

PRESIDENT DUPONT: Senator, we have a split report, the action of the body would be that it would have to defeat the ought to pass with amendment and then the inexpedient motion which is of lower priority, then ought to pass would be before the body.

SENATOR HUMPHREY: So first the committee amendment then the ought to pass motion?

PRESIDENT DUPONT: The committee report is ought to pass with amendment, the amendment is before you at the present time. If it fails then the ought to pass motion is then before the body and that would have to be defeated before inexpedient to legislate would be allowed to be offered as a motion.

SENATOR MCLANE: This is the ninth time that this bill has come before the House and Senate, and I feel very much like a veteran. But I would like to speak to a couple of shibboleths that are always raised in this issue and to answer to them. One, is that people want this bill and I think that the only time that there has been a public referendum about the issue of parental notification was in Oregon and it was voted down decisively. So I don't think that that is a true argument. The second, is that this is the only place that minors do not have to have the consent of their parent. They have to have the consent of their parent to pierce their ears. And this is not true, in fact in almost every state minors can seek treatment for drug abuse, alcoholism, venereal disease, prenatal care and contraceptive advice without consulting their parents. After I've been through this for the ninth time this issue, I have found two things stand out in my mind and one is the testimony of a young women who is a member of the steering committee for the Judicial Consent for Minors Lawyer Referral Panel in Massachussetts, and it speaks very clearly to the mechanism of Judicial by-pass. The testimony from this young women who came before the hearing in the last session was that innumerable problems are adhered in any Judicial by-pass system and it has been an abject failure in Massachusetts to promote any valid state interest. The young women who elect to go to court know they can not communicate with their parents on the subject of abor-



tion. These cases have included situations where the parent, family has recently suffered death, mental breakdown or hospitalization, serious illness such as a heart attack, or a brain tumor, or chronic alcoholism. Additionally, some minors fear the stress of the news will cause a permanent rift between parents marital relationship exists. Thus, minors seek to protect their families as well as themselves. They said in Massachussetts it penalizes only young women who come from disfunctional families or families in crisis and then we must make them go through the trauma of a court hearing which is often more stressful than the abortion itself. There is an adherent delay in the Judicial process and in Massachussetts 10 percent of the judges refused to take parental notification cases and have recused themselves from it, so it puts the burden on others. In Massachussetts this law has no discernable effect on the outcome of minors decisions regarding their pregnancy. This says that two-thirds of minors obtaining abortions in Massachussetts have involved their family and this is approxiamately the same number of minors who involved their parents prior to the institution in 1981 of the Judicial by-pass. So that in Massachussetts that there are between 900 and 1,000 petitions before the court every year in Massachussetts. And I noticed that there is no fiscal note on this bill. But they estimate that because of the appointing of a guardian ad litem and counsel to every minor who must go before the court, with the court proceedings stop so that they must go forward that the attorney's bills themselves are \$100's and so that could be as much as \$100,000 in Massachussetts for the cost. She concludes by saying the Massachussetts experience has shown that there is little to be gained from a parental notification law and much to lose both financially and in human terms. I would conclude by reading the last sentence from a woman who I regard very highly, Doctor Rebecca Ewing in Concord, who sees hundreds of adolescents every day in her local practice and who wrote to me, adolescents is a very fragile time. I have known young women who have threatened suicide rather than speaking with their parents. This is a harassment bill. I am surprised that the sponsors are putting it forward, but it is obviously the only bill that they can see any possibility of passage. But to anyone with a human heart it is the wrong bill for this time.

SENATOR COHEN: I sincerely regret that this body now has to spend its time discussing an issue best left to families themselves. But I must rise to speak in oppostion to SB 34, because I believe in the preservation of traditional family values, and I reject the notion that government knows better than we do about how we should conduct our peaceful family lives. The government has no ability to force healthy family communication where it does not already exist.

Laws that require parental notification before abortions can be performed on teenagers can only do harm to the adolescent woman and her family. In healthy families as has been discussed already, a teenager who has become pregnant will naturally turn to her parents for guidance, and in most cases this is what happens. Parents offer the child support and understanding and help her make the best choice. There is no need for government intervention in this family decision. What about those families in which a girl is frightened how her parents will react. If there is fear, there is probably a reason for that fear. Like a history of domestic violence or emotional abuse. A violence which would surely explode if a teenage girl told her parents she was pregnant. For her very survival or at least for family peace, a teenage girl may simply not have the option of telling her parents. If abortion is illegal unless a teenager tells her parents, what are her options? She may in the very least delay the procedure, increasing the health risk. She may try to have a clandestine, back alley abortion or she may try to self abort. Both of these, all of these are unacceptably dangerous to a womans health. I reject the notion that government should be in the business of endangering the health and lives of our young women. What about the case in which a child has a child because her parents won't grant approval for an abortion or because she can't face her parents and runs away from home? What if she drops out of school and devastates what would otherwise be a healthy, happy and productive life? Do the anti-choices really want to punish such a child for the rest of her life? Sometimes I think maybe they do. Don't be fooled; this is not a bill intended to benefit families. It is not pro-family. It insults families by forcing government interference into our private, personal decisions. This bill will not encourage family communication and families where communication is already open and supportive, this bill would be meaningless. But in troubled families this harsh measure can only succeed in doing harm. This bill is not about families, it is only about assaulting all women's rights. Starting with the youngest and most vulnerable among us. This bill is only one small step which is part of a national strategy for those committed to ending a womens right to choose. There aim is to eliminate the rights of all women to make their own decisions about their own bodies. I strongly oppose this bill and I urge a vote of inexpedient to legislate.

SENATOR HUMPHREY: First, Parliamentary inquiry, Mr. President. Is it in order to ask for the move of the Yeas and Nays on the committee amendment at this time?

PRESIDENT DUPONT: You are the last speaker at the present time Senator Humphrey, so if you would rather not speak it would be moved at this point and time.



SENATOR HUMPREHY: Let me rephrase the question. Does passage of such a motion then cut off debate, there is no further debate?

PRESIDENT DUPONT: Senator, the defeat of the committee amendment would put the bill on second reading and open to further amendment, there would be additional debate allowed at that point in time.

SENATOR HUMPHREY: But my question was moving the Yeas and Nays, does moving the Yeas and Nays cut off further debate?

PRESIDENT DUPONT: No it does not Senator.

SENATOR HUMPHREY: Then I would move the yeas and nays on the committee amendment.

SENATOR MCLANE: Question of the chair. I am concerned about the amendment and the wording of the amendment which I assume goes back to the 1841 statutes which, and my question which I wish to ask of Senator Humphrey was did that felony statute allow for the health of the mother?

PRESIDENT DUPONT: Senator Colantuono might perhaps respond to that question.

SENATOR HUMPHREY: Parliamentary inquiry. Is the motion for the Yeas and Nays a debatable motion?

PRESIDENT DUPONT: No, it is not Senator. So Senator McLane.

SENATOR MCLANE: So, my question will go unanswered.

SENATOR HUMPHREY: I would be perfectly happy to answer, but I sought the Yeas and Nays and I was hoping that somebody would second it and we can dispose of this.

SENATOR HEATH: Parliamentary inquiry. Are you accepting the motion of Yeas and Nays as a motion for roll call vote?

PRESIDENT DUPONT: I have not recognized the acceptance of the motion at this point and time.

SENATOR HEATH: Further parliamentary inquiry. Is that your interpretation of what the Yeas and Nays mean? That is all I want to know.

PRESIDENT DUPONT: Senator, I would assume that based on tradition in the past in this body, it would be a motion for a roll call would be in order. To have a roll call vote if that's what you're looking for.

SENATOR HEATH: Yea, I wanted to distinguish that from a standing vote.



PRESIDENT DUPONT: The Chair interpreted Senator Humphrey's request as a move the question request and it has not been recognized by the chair as of yet.

SENATOR HUMPHREY: Mr. President, parliamentary inquiry. I must admit I am confused by the parliamentary situation, but that is why I am asking. Is it in order to offer a motion for the Yeas and Nays, which I understand to be a roll call vote at this time and can one do that without precluding further debate on the committee amendment?

PRESIDENT DUPONT: Senator, the request would be for a roll call vote in this body.

SENATOR BLAISDELL: Can I have a motion?

PRESIDENT DUPONT: Could we let this one get finished first, Senator Blaisdell, and if we could just have a 15 second recess.

Recess.

Out of recess.

PRESIDENT DUPONT: To clarify the request of Senator Humphrey, at this point and time, this bill is still before us and open to debate and that Senator Humphrey will be requesting a roll call vote at the time in which we finalize our debate on the subject. Therefore, Senator McLane is recognized for a question to Senator Colantuono.

SENATOR MCLANE: My concern, although you have changed the amendment from the other day and now you just said that it doesn't repeal the 1841 statute. Obviously, the implication is that it would go back to the 1841 statute. My question is that statute makes abortion a felony for either the women or the doctor, but does it allow any exceptions for the health of the mother, the prognosis for the child or any of the exceptions that we have come to recognize as medically and humanely necessary?

SENATOR COLANTUONO: Senator, my best recollection of reading that statute is that statutory provisions written therein; however, my best recollection of reading the law as it was in the 19th century was that there was certain common law recognitions of the life of the mother and beyond that I am not enough of a legal scholar of the 19th century to know, or to answer the rest of your question.

SENATOR MCLANE: Thank you.

SENATOR HUMPHREY: Well Mr. President, I do want to seek a roll call on this question. I misunderstood the means by which one does that and so at the appropriate time I will ask for a roll call unless someone else does so. I first want to thank Senator Podles,

Chairman of the Judiciary committee for her help in sheparding this bill through the hearing process and likewise thank our colleague, Senator Colantuono, who has taken special interest in this matter and has been intrusted with the managment of the bill on the floor. I thought that he spoke very well in favor of this bill. There are a number of points that I would like to touch upon, and I hope that the Senate will indulge me inasmuch as I am the author of the bill. This bill necessarily, unavoidably raises the controversy of abortion, the fundamental controversy of abortion. I suppose that can't be avoided, but in so raising it, it raises a lot of emotional and political rhetoric at the same time. I hope that we can approach this on a logical basis and not resorting to political labels or impuning one anothers intentions or trying to examine one anothers heart. I hope that we can examine the matter before us, logically and dispassionately as we possibly can, because it affects the welfare of our young people and indeed the values of our society. It is a very serious matter. I want to site one of two statistics and the source is the Allen Goodmocker Institute which is closely associated, I think everyone knows, with Planned Parenthood Association, one of the foremost exponents of abortion on demand. So I'm hardly drawing these statistics from a source friendly to my point of view. According to the publication of the Allen Goodmocker Institute of 1990, at 1985 rates, 9 percent of young women will have had at least one abortion by their 18th birthday. Of course the relevance of 18 is that this bill before us applies to those under the age of 18. According to Allen Goodmocker at 1985, 9 percent, and that's probably lets face it, it must be up around 10 percent or more by now, that seems a conservative projection. And further that about 42 percent pregnant teenagers choose abortion. That is probably a little higher today, too. Probably something closer to 50 percent choose abortion, so were not talking about an inconsequential matter or some academic question, but a very real problem in our society. Some 80 percent of abortions on teenagers take place in abortion clinics as opposed to a doctor's office or a hospital and it's unlikely that in such a setting an abortion clinic, that the young women or child, as the case may be, will have the benefit of consulting with a long, trusted family physician. Indeed it's almost always the case that the physician who performs the abortion is someone the patient has just met and for that matter vice versa, that the patient is someone the doctor has just met and perhaps has counseled for perhaps five or ten minutes. It's a very serious matter indeed I think, as the statistics make clear. In offering this bill, we are offering a very mild, reasonable indeed from the point of view from many of us, a very weak bill. It seems to me the least that we ought to do in upholding the right of at least one parent to be notified 48 hours before a physician is proposing to



perform an abortion on a dependent minor. That is, someone unmarried under the age of 18. The very least we should do. No one can raise any arguments about the constitutionality of what we proposed to do here. The language of this bill is drawn almost verbatim from The Minnesota statute which the Supreme Court upheld last year in the case of *Hodgson vs. Minnesota*. The significant difference is that under Minnesota law both parents are required to be notified. Ours we have watered it down as far as we can go and still have a bill that means anything at all. Under our bill only one parent need be notified and not directly. The physician who is going to perform the abortion doesn't have to do it. Neither does anyone in the abortion clinic or the office have to do it personally. They can resort to mail. To the U.S. mail sending a certified letter which is presumed to arrive. They don't even have to know for sure that the parent has been in fact notified. I mean under this bill it's so weak that a letter can go off into limbo. I mean maybe that one parent who has been chosen to be notified has moved away or for some reason can't be found or maybe the post office doesn't deliver the letter within 48 hours, the presumption in this bill is that it's been delivered and that the parent has gotten his or her notification under the law and the physician is free to perform the abortion. How much milder, weaker, more reasonable a bill could we possibly present that still has meaningful parental involvement. If someone has an idea, a serious idea on that score, I would like to hear it. Nor are we proposing that this state do something that is revolutionary, or new, or different than other states. Our colleague Senator Colantuono has pointed out that is it thirty-eight or thirty-five? Thirty-eight states, legislatures just like ours, people by legislators just like us that concluded that such legislation ought to be enacted now, it's important to point that out before some lawyer jumps up. That in many of these cases there have been injunctions against the enforcement of those laws. In some cases there are various lawsuits pending. But in a number of states these laws have stood challenge and are operative today. In fact, in 8 states there are parental consent laws, not just notification, but consent. Giving the parent, a parent or both parents depending upon the state, the authority to forbid an abortion if they so choose. Eight states have parental consent laws. We're not going for consent, we're going for notification. In fact under our law to emphasize the point I'll take the worst case I can think of. Let's say an 11 year old child conceives. She is a little mature for her age. She wants an abortion or has been talked into an abortion, under this law she must notify, that is to say the physician must notify by mail a parent. And let's say the parent is so notified and forbids the performance of an abortion, who wins, the child or the parent? Under this weak law, an 11 year old child can overrule the wishes of a parent and secure the



abortion. Now that's how weak this is. This bill does not give parents one ounce of say in whether a physician will perform an abortion or not. All it provides, providing that the mail gets delivered in time is that one parent gets the opportunity to know beforehand that a physician proposes to perform an serious medical procedure with profound ethical overtones upon a dependent minor in the family. That's all it provides. If that dependent minor, however immature she emotionally may be, she maybe wants the abortion. There is nothing in this law that can forbid it or stop it or slow it except in the sense of the 48 hour period. So it is not by any definition a parental consent law. I wish it were frankly, but I know that we can't pass it in this body and that's why we've opted for a much weaker law, much weaker bill. It's constitutionally sound. It's been upheld, virtually the same bill. In fact, a stricter bill, just this past summer. The states I mentioned, the 8 states that have consent laws. They are Alabama, Arkansas, Illinois, Louisiana, Massachussetts, Missouri, South Carolina, and Wisconsin and four states have parental notification laws. And in some cases like Minnesota, where they require notification of both parents, and other states just one parent and those states are Michigan, North Dakota, Tennessee, and did I say Minnesota, well there are four states. Now Mr. President, and Senators, you will recall that this bill was on the floor last week and Senators graciously agreed unanimously to recommit the bill to the Judiciary committee. We sought that because frankly there was some language in the bill that was a little inflammatory. Laden with values shall we say, and we had hoped that, and we continue to hope that by removing that inflammatory language and making it as sterile as possible while not changing the effect, that we might gain the support of Senators who feel divided on this issue, and so we have changed that. We have taken out, I should say the committee has, taken out the reference to unborn infants which bothered some people and replaced it with language to which from a values point of view no one can possibly object. I hope that by delaying it a week and rewriting the language and seeking to accommodate some Senators that we might pick up additional support for the bill. I want to address a couple of points raised in this yellow position paper that someone passed out unattributed, but there are some things that really require rebuttal or at least another point of view. The Senators care to refer to it, I'm looking at roman numeral I, the first point. Well I will skip the first one because it doesn't say much, but the second point, listen to the language of this carefully. Eighty-five percent of minors confronted with a crisis pregnancy consult a parent or other adult relative. Now this bill before us is not another adult relative bill, this is not another adult relative consent bill. This is a parental consent bill. And that 85 percent is a highly misleading

figure. We're not talking about consulting an aunt or an uncle or an in-law or a younger sister or a younger brother or older or anyone else. We're not talking about anyone except mom and dad. So this figure of 85 percent is misleading. If it were good enough for just anybody to counsel a child faced with a crisis, then there would be no need for this bill. Any counselor at an abortion clinic will do, any physician will do. Even though they have known that child for 20 minutes or an hour at the most, they'll do. But the point is it isn't good enough. Who knows a child better than mom or dad, one or the other who's raised that child and lived with that child and parented that child for 12 to 17 years and 365 days. The answer is obvious, the parent. The mother or father knows that child better than anyone else, inlaws, outlaws, brothers, sisters, complete strangers who run abortion clinics, parents know best and by gosh in the view of this Senator, a parent has the right to know when a serious medical procedure is about to be performed on a child. I yield the floor right now. I challenge any Senator to stand up and say I believe a 12 year old, I believe that a physician should be able to perform an abortion on a 12 year old child without telling either the mother or the father. Anybody want to stand up and say that on record? How about 13? How about 15? I'm ready to yield the floor. Anybody want to go on the record making a statement that parents have no right, not even one parent, to know when a physician is going to perform an abortion on that child. Senator McLane?

SENATOR MCLANE: If the mother is mentally ill and in a state hospital and the father is the father of the child, I think that would be a situation where that family did not know best.

SENATOR HUMPHREY: Well I would agree with my dear friend from Concord, but that is precisely why we have in this bill the Judicial by-pass provision. So that in impossible situations a minor dependent may go before a District or Superior Court Judge and seek the authority from that Judge for the physician to perform that abortion. But let's not talk about hard cases. Lets talk about the situation as it usually exists in 95 of the cases and in that context does any Senator want to stand up and say a physician should be perfectly and absolutely free as he is today to perform an abortion on a twelve year old girl without so much as a written notification to one parent. Which Senator wants to go on record as making that statement? Well, that's my point. I am not trying to give my colleagues a hard time. But it seems to me that in voting against this very reasonable bill, that is precisely the statement that Senators will be making. And that is precisely I think, I hope, how that vote will be judged. There is obviously a political fallout to all of this. That's why we ought to have roll call votes on controversial issues so



that voters can measure the performance. It's the judgement, let's say of their Senators against their own point of view. That's the way democracy works. I want to return to this sheet again. The next point is that there is no difference in effect between requiring parental notification and parental consent. There sure as heck is. The effect of consent is that a parent can block an abortion and such laws have been upheld by the courts. But that's not what we're seeking. That's an important difference, isn't it? That's a big effect and so that point, too, is faulty. I'm going to skip over a poor, the case of this poor deceased 17 year old, but for anyone who wants to look at the name and talk to me about the case of this person, I can show them the autopsy report that declares that there was no evidence of an induced abortion being performed on that young woman. That in fact that she died of pneumonia. That the contention that she died from a septic abortion is faulty because there was no infection present in the uterus. It was all in the lungs, it hadn't spread as the result of a faulty, or an unprofessional abortion. In fact, the young woman had an appointment in a lawful abortion clinic the next day. So it's hard to comprehend that she might of had an unlawful abortion instead. But in any event the medical evidence indicates that contrary to the contention of those who like to raise this case as evidence that there was no sign of mechanical abortion, that there was no infection of the uterus that might have spread elsewhere to account for the death that rather the infection was pneumonia. The next point is roman numeral II. Mandatory parental involvement laws do not provide assistance to minors. Well that has nothing to do with the bill before us. But in fact just to make the point, there are organizations that provide assistance to minors who choose to carry a child to term, whether to raise that child or to place the child for adoption. The state and the country, thank God, are loaded with crisis pregnancy centers. People who are willing to befriend women in crisis and provide the material help and let me just say also and for the record I'm not a Catholic, but I praise the Catholic church for this position. The Catholic church in this state has offered to help any woman, any woman irrespective of faith or whether that woman has any faith whatever, even if she's an agnostic or an atheist. The Catholic church is prepared to help such woman. So to suggest that we ought to have wholesale abortion without the consent, without the knowledge of a parent because there are no organizations that provide assistance, I think is faulty on its face. The third point, is roman numeral III. It says the Supreme Court has ruled that it's unconstitutional for a parent to exercise absolute veto power over a minors decision. This bill doesn't provide such veto power. Judges don't like, don't like these kinds of cases. Well judges don't like lots of kinds of cases. Legislators don't like certain kinds of bills. A lot of



members here would just as soon not have to vote on this bill, big deal. They don't like it. So what. They don't like child abuse cases. They don't like child custody cases, they won't like these cases. But we don't pay them to do things that they like only. A couple more points on the bill itself, if I may Mr. President. In a life-threatening emergency this bill is out the window. It's completely waived. A physician who in his own mind determines that a life-threatening situation is present can forget about this bill or statute if it becomes law. It's utterly, completely waived. He has complete, absolute authority and latitude to perform the abortion in that circumstance. Let me examine another shibboleth that I find shocking, really, and discouraging and that is this notion or the assertion that if a child is unwilling to tell her parents she is pregnant, that is because she has ogres for parents. That's nonsense. We all know that children are immature, that they have terribly poor judgment. Of course, they're afraid to tell the parent. Of course the parent in most cases is going to be angry or hurt or both. That's as parents we have all been through that in another context. But parents are understanding, they're first of all mature. They're second of all understanding, they're third of all loving and so this notion that every child who fears to tell mom or dad or to have mom or dad notified by mail that she is going to have an abortion has just reason and that every child who so fears has ogres for parents is rubbish. I think there is a lot more understanding and love among the parents of this state than the opponents of this bill will acknowledge. And in those cases just to point out once more where there is a well founded fear, there is Judicial by-pass which is confidential, explained and in the case where the Judge finds the child, it's in the child's interest to have the abortion, not even appeal it, nobody can appeal it, that's it. I mean there is another concession to those of you who don't like this bill. We have made it as weak as we possibly can. It doesn't violate the confidentiality. By the way I'm drawing, I am trying to rebut the arguments that were raised in the hearing. I sat through all three hours of that hearing. I jotted down the principal arguments and I am trying to rebut those principal arguments and if Senators will bear with me I am nearly finished. Someone claimed that this bill violates the confidentiality between a parent and her physician. Nonsense. There is complete confidentiality between the parent, excuse me between the, wait let me say that again. It violates confidentiality between a patient and her physician, that simply isn't so. There is complete, utter confidentiality until the doctor determines that he is going to perform the abortion. Up to that point there is complete confidentiality. And there is complete confidentiality except that he must notify in writing, one parent. Another claimed that minors won't know how to access the Judicial bypass. Well that's

silly, I mean these abortion providers are only too skilled in telling their patients or their clients perhaps I should say, everything that they need or want to know and you may be sure if we enact this bill, these abortion providers will say don't worry you don't have to tell your parents. You can go down and see a judge, it's confidential, it's explained and you may be sure that information will spread like wildfire. So the suggestion that minors won't know how to access this procedure and in cases where they don't want a parent notified will instead avail themselves of unlawful abortions I think is faulty. Another one that was raised in the hearing was raised again today, is that we allow the treatment of a minors venereal disease on a confidential basis that a physician need not inform a parent that a child is undergoing treatment for a venereal disease. Well pregnancy is not a venereal disease and getting rid of gonorrhea or syphilis is a little bit different than getting rid of a human fetus, and so that argument is distasteful. Judicial bypass will entail extra court expense, yes it will, first time I ever heard the Senator, our dear colleague Senator McLane worry about the cost in connection with our youth. I don't, I know that she believes as I do that you have to weigh the cost against the welfare of a person in crisis in this case, and that persons' welfare has to be preeminent. Well Mr. President, I'm done essentially. I hope Senators will take a moment during the debate to look over the bill. It's only three or four pages and of course there's a committee amendment that replaces about the last half I guess. But it's simple, it's straightforward, easily understood. I hope Senators will read the bill and not react in a political sort of way spurred on by all these pressure groups on both sides, may I add. We can have a dispassionate and a logical examination of this bill. The status quo is this, that today a physician may perform an abortion on the youngest woman who can conceive without so much as a notification of even one parent. That's the status quo, are you happy with it? Anybody want to stand up and say, I'll repeat my invitation. Who wants to stand up and say that a physician should be able to perform an abortion on a child without notifying even one parent? Who wants to go on record, and saying that? I repeat my invitation and yet that's exactly what Senators will say who vote against this bill. I thank the chair. I thank my colleagues for their patience and I hope to thank them for their votes.

SENATOR J. KING: I rise in support of this bill. Basically, the smallest form of government is the family and I don't think this bill, I think this bill would strengthen that situation. How many of you here have had a daughter in a similiar circumstance and didn't take you into her confidence, how would you feel about her. You'd say probably you wouldn't even know about it, but say the situation



arose late on where you did find out about it. Can you imagine the circumstances within that house. Are we creating deception, are we allowing deception to be part of a family organization? I know there are tough circumstances. In some cases they are very, very tough. First I would like to start things off by saying leave things to the families itself, I agree with that. To the families itself. But somebody outside has interfered, they're in there now. They're in there now, it was the families itself, there would be that feeling between them. And I also think that we assume that every parent is not going to go along with that child and I don't think that we should assume that. I think it's a shame when we even have to consider making a bill such as this in a city, in this state, in this country. I certainly am against it, I am for it, excuse me. I am certainly for this bill, thank you.

Senator Hough has moved the question.

Adopted.

#### **Amendment to SB 34-FN**

Amend RSA 132:21, II as inserted by section 2 of the bill by replacing it with the following:

II. If such a pregnant minor elects not to allow the notification of one of her parents or guardian or conservator, any district or municipal court judge shall, upon petition, or motion, and after an appropriate hearing, authorize a physician to perform the abortion if the judge determines that the pregnant minor is mature and capable of giving informed consent to the proposed abortion. If the judge determines that the pregnant minor is not mature, or if the pregnant minor does not claim to be mature, the judge shall determine whether the performance of an abortion upon her without notification of her parents, guardian, or conservator would be in her best interests and shall authorize a physician to perform the abortion without such notification if the judge concludes that the pregnant minor's best interests would be served if the abortion were performed.

(a) Such a pregnant minor may participate in proceedings in the court on her own behalf, and the court may appoint a guardian ad litem for her. The court shall, however, advise her that she has a right to court appointed counsel, and shall, upon her request, provide her with such counsel.

(b) Proceedings in the court under this section shall be confidential and shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant minor. The district or municipal court judge who conducts proceedings under



this section shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a record of the evidence to be maintained including the judge's own findings and conclusions.

(c) An expedited confidential appeal to the New Hampshire supreme court shall be available to any such pregnant minor for whom the court denies an order authorizing an abortion without notification. An order authorizing an abortion without notification shall not be subject to appeal. No filing fees shall be required of any such pregnant minor at either the trial or the appellate level. Any hearing before the supreme court of an appeal under this subparagraph shall be given priority on the court calendar.

Amend the bill by inserting after section 2 the following and re-numbering the original section 3 to read as 4.

3 Applicability. It is the specific intent of the general court not to repeal by implication any other New Hampshire law by the passage of this act. No court or judge shall construe anything in this law to repeal by implication any other New Hampshire law.

### AMENDED ANALYSIS

This bill prohibits any physician from performing an abortion on any unemancipated minor or incompetent female without giving 48 hours' written notice, in person or by certified mail, to a parent or guardian.

This bill provides a procedure for waiver of the notice requirement in certain circumstances. The minor may also petition a district or municipal court to have the notice requirement waived and is entitled to a court appointed attorney for the petition procedure and appeal of it.

A violation of these requirements constitutes a misdemeanor.

A Roll call was requested by Senator Humphrey.

Seconded by Senator Heath.

The following Senators voted yes: Heath, Disnard, Roberge, Nelson, Colantuono, Podles, Humphrey, J. King, St. Jean, Delahunty.

The following Senators voted no: Oleson, W. King, Fraser, Hough, Currier, Blaisdell, Bass, Pressly, McLane, Russman, Shaheen, Hollingworth, Cohen.

Yeas: 10

Nays: 13

Committee Amendment Fails.

SENATOR HUMPHREY: Parliamentary inquiry. Is a roll call request in order?

PRESIDENT DUPONT: Yes, it is Senator.

SENATOR HUMPHREY: I make that request.

SENATOR HOLLINGWORTH: Parliamentary inquiry? The roll call was 13 - 10, is that not correct?

PRESIDENT DUPONT: It was 11 to 12.

SENATOR HOLLINGWORTH: Motion failed 11 to 12 on the committee amendment?

SENATOR COLANTUONO: There is some dispute about the vote, could we repeat the roll call?

PRESIDENT DUPONT: Senator, the Chair is clear on the vote. It was 11 affirmative, 12 negative, the chair did not vote.

SENATOR HUMPHREY: Parliamentary inquiry, Mr. President? Is there some way to secure the vote of the Chairman, of the President, the Presiding Officer?

PRESIDENT DUPONT: Senator, as I understand it, I have the opportunity to vote or not vote, but am required to vote in the case of a tie.

SENATOR HUMPHREY: I see.

Recess.

Out of recess.

PRESIDENT DUPONT: There was a question on Senator Oleson's vote. The clerk interpreted the vote as an affirmative vote when in fact it was a negative vote. The motion fails on a vote of 10 - 12, 12 being negative, 10 - 13, I'm sorry. Ten being the negative vote, ten being the positive vote and 13 being the negative vote.

SENATOR HUMPHREY: Mr. President, may I be recognized on a point of personal privilege?

PRESIDENT DUPONT: We have had a request for a roll call on the ought to pass motion Senator Humphrey, so we will do that at the present time.

SENATOR HUMPHREY: Parliamentary inquiry. Is there some rule in here that the Senator seeking to speak in here on a point of personal privilege?

PRESIDENT DUPONT: Senator, when were in the voting mode, it is in appropriate for you to be recognized.

SENATOR HUMPHREY: Has the clerk called the names as of yet?

PRESIDENT DUPONT: She has not.

SENATOR HUMPHREY: Then we aren't actually voting at all.

PRESIDENT DUPONT: Senator, the roll call has been requested, the motion is before the body at this point in time and the roll will be called at the present time.

SENATOR HUMPHREY: Parliamentary inquiry? Is there a precedent or ruling that it could be moved and forgotten when no name has yet been called?

PRESIDENT DUPONT: Senator, there is a precedent for that. So that there be no misunderstanding we are in the voting mode and the clerk will call the roll, the motion before you is ought to pass and the bill is on second reading and open to further amendment, the question is, shall the bill be ordered to third reading in the late session? The clerk will start with district #1.

A Roll call was requested by Senator Humphrey.

Seconded by Senator Heath.

The following Senators voted yes: Heath, Disnard, Roberge, Nelson, Colantuono, Podles, Humphrey, J. King, St. Jean, Delahunty.

The following Senators voted no: Oleson, W. King, Fraser, Hough, Currier, Blaisdell, Bass, Pressly, McLane, Russman, Shaheen, Hollingworth, Cohen.

Yeas: 10

Nays: 13

Ought To Pass Motion Fails.

Senator Hollingworth offered a **Motion to Adopt Minority Report of Inexpedient To Legislate.**

Motion Adopted, VV.

SB 34, is INEXPEDIENT TO LEGISLATE.

**SB 85-FN**, an act relative to women's sports. Public Affairs committee. Ought To Pass With Amendment. Senator Cohen for the committee.

SENATOR COHEN: This bill establishes a committee to study methods for achieving greater gender equity in athletics. It sets up a committee to be held in 1991 to discuss ways to increase overall female participation in athletics. They will study the lack of attention women's sports received in the media and study methods to encourage women to take leadership roles as coaches and as administrators. The committee amended the bill to removed the inclusion of Senators and Representatives, thus it occurs at no cost to the state.



SENATOR COLANTUONO: Senator, the amendment printed in the calendar on top of page 9 refers to meetings, chair and mileage. Was it the intent that no mileage be spent on this measure?

SENATOR COHEN: Yes Senator, that was the intent.

### **Amendment to SB 85-FN**

Amend the bill by replacing sections 1 and 2 with the following:

1 Study Committee on Sport Gender Equity Established. There is hereby established a committee to study how to better achieve gender equity in athletics. The committee shall consist of the following members:

- I. Two coaches, appointed by the governor.
- II. Two school administrators, appointed by the governor.
- III. Two teachers, appointed by the governor.
- IV. Two sports information personnel, appointed by the governor.
- V. Two persons involved in community sports programs, appointed by the governor.
- VI. Two persons involved in interscholastic athletic programs, appointed by the governor.
- VII. Two persons involved in intercollegiate athletic programs, appointed by the governor.
- VIII. Two media persons, appointed by the governor.
- IX. One member from the New Hampshire Interscholastic Athletic Association, appointed by the governor.

2 Meetings; Chair; Mileage. Appointments to the committee shall be made within 30 days of the effective date of this act, and the first meeting of the committee shall be held within 60 days of the effective date of this act. The committee shall elect a chair at its first meeting.

Amendment Adopted.

Ordered To Third Reading.

**SB 224**, an act relative to increasing the bonding authority for industrial development projects for the city of Dover. Public Affairs committee. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: SB 224, increases the bonding authority for industrial development projects for the city of Dover. It increases the bonding for industrial parks from \$1,500,000 to \$4,000,000 and the amount for industrial park buildings from \$500,000 to \$1,000,000. This basically adjusts for inflation what already exist in the law. This also must go through the Mayor and Council and it must come before the public for a hearing. There was no opposition to the bill and the committee recommends ought to pass.

SENATOR SHAHEEN: I just wanted to respond to a question that I've had from Senator Humphrey about why this legislation is necessary. What this allows the city of Dover to do and it's one of two cities in the state that has this authority. It's to bond projects beyond the cities municipal bonding limit through its own industrial development authority. It can do that without passing along the costs of those projects to the right payer or to the taxpayer in the city. There actually formed by the private business that is provided with the bonding, so hopefully, that answers your question.

SENATOR HUMPHREY: But why aren't cities free? Even without this bill to do as they darn well please in terms of bonding?

SENATOR SHAHEEN: That question I can't answer.

SENATOR HUMPHREY: Further question. Is there some increase liability to the state or expense to the state by virtue to this, I mean why? I don't get it. I mean why should the city of Dover have to ask us for authority to increase its bonded indebtedness? Unless, we have some stake in it and I am trying to find out if we do. Does the state as a whole have something at risk by virtue of all this?

SENATOR SHAHEEN: Perhaps someone else could help me out here. It's my understanding that this does not put the state at risk at all. That what it does is it allows Dover's private industrial development authority to bond projects. All of this bonding is subject to approval by the city council and the regular public hearing process. And it's my understanding that the state is not at risk at all on this bonding.

SENATOR HEATH: It's my understanding that the full faith of the credit of the state is behind the bonding and therefore there is an increase of responsibility in the state and it puts the state at risk insofar as the further it extends us the number of pieces of legislation this session to lend the credit line of the state to municipalities. There is one bill in that would even lend it to non-profit organizations of certain types and it seems to me the further out you get in taking that risk and putting the full faith in credit of the state behind it, you endanger the bond rating. And the bond rating has a dollar consequence; as our bond rating declines the cost of borrowing money goes up and then we have been looking at an enormous amount of bonding. In fact, it's sort of, I see a bit of a surge going through the Senate this year that this is the year to bond the hell out of everything and hire all these people, sort of a Franklin Roosevelt plan to bring us out of a recession. So it seems to me we're beginning to do a little bit of river boat gambling and drawing the broadening of the bonding authority and then turning around towards the end of



the session and do a series of bills that in the vain effort to turn the economy around. To do a lot of bonding and risk the rate structure collapse that I think that we will see if we do the combination of the two. Thank you.

SENATOR HUMPHREY: Senator Heath, I am not arguing against this particular bill, but I am still curious. Does the Senators, do I infer correctly that the state has given a special benefit to these two cities in backing their bond issues and that's why in the case of these two cities, alone they have to come to us when they seek to increase the ceiling?

SENATOR HEATH: It's my understanding of that bonding presently and under those limits and under this expanded limit should it pass here, has the full faith in credit of the state of New Hampshire behind it and that is why it would be an issue that would come before us. If it were simply the city, but I think the underlying logic behind putting the states full faith in credit behind bonding issues is that if the city collapses we know where the hand is going to go to the state. It doesn't mean that those people won't be paid, cities don't go bankrupt, they just act that way.

SENATOR HUMPHREY: But again, I still haven't been able to fill that void in my knowledge here. Are these two cities receiving special benefits that other cities are not?

SENATOR HEATH: No, it's at least my understanding and I am hardly an expert in this area and perhaps overstepping my bounds, but in lieu of anyone else volunteering it's my understanding that all of the bonding issues in towns are there and I guess there is an expansion of that liability back to the state.

SENATOR HUMPHREY: So that every city or town that seeks to raise its bond limit has to do the same thing as this bill will seek to do for Dover?

SENATOR HEATH: That's my understanding and I think that an example of a similar thing that we did and it did come back and bite us in the ankle, or higher, was the one on the Belknap ski area. We allowed them to borrow \$10,000,000 so that they could capitalize a snowmaking thing that they argued over sandwiches and punch. There was a bunch of legislators from this body that they would ever be free of the demon of not having snow in Belknap and therefore never again fall in arrears on their operation cost. They completed that project in the first year, ran up over half million dollars in operation cost deficits, rolled that into the borrowing thing and are now facing the crisis of finally having to go back to the taxpayers and reach into their pockets to run another socialized ski area such as



the state does. I mean that's the kind of risk that I think that we run and in expanding the width of the bonding authority in the state has been playing fast and losing in doing that in recent years and I personally grow concern that our bond rating again will collapse from it.

SENATOR HUMPHREY: I can discover nothing wrong with the bill, but I do sense, I do share the concern with Senator Heath. That we pile on bonded indebtedness without regard to any yardstick of how much we can afford. How much is right to dump on the next generation, how much we can, not only in terms of how much we can afford in total debt, but how much we can afford in annual debts service. There ought to be some yardstick by which we're measuring these decisions and perhaps that's something that we can work on in the future.

Adopted.

Ordered To Third Reading.

Senator Colantuono in opposition to SB 224.

Senator Heath in opposition to SB 224.

**SB 68-FN**, an act relative to the transportation of animals in open trucks. Transportation committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: This is Senator Roberge's bill and she did a good job of answering a lot of the reservations of various groups and I believe it was unopposed in the hearing and I would urge my colleagues to vote ought to pass with amendment.

SENATOR NELSON: That a rope is alright on this, or a chain, or a string. I mean I know it says cage, I just want to make sure I understand secured in such a manner. Is that what it means? I'm wondering unless the animal is secured in such a manner, such a manner could be, any manner at all then, thank you.

### **Amendment to SB 68-FN**

Amend RSA 644:8-e, I as inserted by section 2 of the bill by replacing it with the following:

I. To assure the safety of animals, no person shall transport any animal in the back of an open truck, unless such animal is enclosed in a secured to the vehicle cage or unless the animal is secured in such a manner to maintain its entire body within the confines of the truck. "Open truck" means any truck lacking or having a limited top, back or sides protecting the animal from the elements and preventing the animal from being injured. The truck shall provide the animal adequate ventilation.

**AMENDED ANALYSIS**

This bill prohibits the transportation of any animal in an open truck unless such animal is enclosed in a cage, secured to the vehicle or unless the animal is secured in such a manner to maintain its body within the confines of the truck.

Amendment Adopted.

Ordered To Third Reading.

**SB 106-FN**, an act relative to anatomical gifts. Transportation committee. Ought To Pass. Senator Pressly for the committee.

**SENATOR PRESSLY:** I believe that there is a floor amendment to be passed out, Mr. President.

**PRESIDENT DUPONT:** Senator, you would have to offer the committee report and on second reading we will accept your floor amendment.

**SENATOR PRESSLY:** You would like a report on the amendment?

**PRESIDENT DUPONT:** On ought to pass.

**SENATOR PRESSLY:** The committee report is ought to pass. The committee did authorize me to prepare a floor amendment which will be passed out to you for your consideration. This bill was inspired by a Mr. Bob Crouter of Amherst and he recieved a new heart on October 31, of this year. It has taken a man from his death bed to a new life. Through his experience and his enthusiasm and sharing of his experience it became apparent that the state of New Hampshire although this is perfectly acceptable and encouraged. It is very difficult for a reason that could be easily cured. This bill is to require that the Department of Safety make the ability for the person to do this easily accessible and visible. To have this option on the renewal form and every form that is available in the application or reapplication for a drivers license. This cost absolutely no money. This is encouraging the state to make more available what is already available. The amendment is an effort to acknowledge the gentleman who'se had the good fortune of being at the right place at the right time and he is successfully recovering now and a 64 year old man is now enjoying a 27 year old heart, and doing extremely well and is a strong advocate of organ donations. His donor also did enhance the lives of about 5 other people through the organ donor concept. As you know this type of technology is no longer experimental, it is available and this is to see that New Hampshire participate to the fullest in this type of program. I respectfully request that we approve the amend-



ment that is being passed out and this is to acknowledge the success of a New Hampshire gentleman and to acknowledge that he has inspired this legislation.

Adopted.

SENATOR Pressly offered a floor amendment.

SENATOR HEATH: The hearing on this legislation Senator Pressly, talked about Mr. Crouter and asked if this might not be named after him and I had thought why not. Now seeing an amendment to that effect I grow concerned. And I say this without any disrespect to yourself and certainly no disrespect to the gentlemen whose story is an inspiration, and I hope that all people understand the importance of donor programs such as this. I worry that on this good cause we begin a process of now naming legislation and tying this body up in the future with these things on less inspirational, less noble causes of naming legislation. Traditionally, we haven't had named legislation like Wally Brown and Pitman Robinson and all the acts of Congress that have traditionally carried individuals names and my concern is the presence and certainly not the worthy individual or the worthy cause that this represents. I for that reason, I am going to vote against this with no disrespect either to yourself Senator Pressly, or to the gentleman whose life has been restored through a wonderful program. Who's been an inspiration in moving this forward. No disrespect meant to any of those causes or individuals or yourself. It's simply that we are headed down a road that has a lot of I think, future problems for us and I think this is the best place to turn off that road.

SENATOR PRESSLY: Senator Heath, I assure you I would not have brought this in had I not had your previous approval. I'm a little bit startled, I would not have done this if I had not had the full concurrence of the committee upon request and you're saying yes. I see no reason not to give credit where credit is due. This legislation would not be before you if it were not for this gentleman. He has, through his efforts, has given publicity to this cause and I see no harm in doing this and I respectfully ask your passage.

Recess.

Out of recess.

SENATOR PRESSLY: Out of respect, having conferred with some of the committee members, it is the sense of the committee that the amendment be withdrawn and in its place, be placed into the permanent record and Journal for the benefit of the Senators that this gentlemen's name will be entered into the record in honor of him and the amendment will be withdrawn.



**Floor Amendment to SB 106-FN**

Amend the bill by inserting before section 1 the following and re-numbering the original sections 1 - 4 to read as 2 - 6, respectively:

1 Short Title. Bob Crouter of Amherst, New Hampshire, received a new heart and because of his wonderful success story, he is an inspiration to all New Hampshire citizens. Therefore, this act shall be known as the Bob Crouter Act.

**AMENDED ANALYSIS**

This bill requires the division of motor vehicles to place a statement relative to the availability of making an anatomical gift on any form or other appropriate communication dealing with motor vehicle licensure. The division is required to make this written statement only on new forms it must order.

The bill also requires offices concerned with motor vehicle licensure and regulated by the division of motor vehicles to place a notice relative to making an anatomical gift in a conspicuous place.

The general court has named this bill after Bob Crouter, who because of his wonderful success story with a new heart, is an inspiration to all New Hampshire citizens.

Ordered To Third Reading.

**SB 112-FN**, an act relative to license plates for firefighters. Transportation committee. Ought To Pass. Senator Currier for the committee.

**SENATOR CURRIER:** This bill authorizes the director of motor vehicles to issue a vanity plate for the fee of \$25 for volunteer firefighters as well as professional firefighters which meet certain qualifications as set forth in the application provided by the department. The bill makes money for the state in that it charges a \$25 fee for recognizing 7,500 firefighters in the state of New Hampshire by issuing them a special license plate.

**SENATOR COLANTUONO:** Do you know whether the current cost of a so-called vanity plate is \$25 or is that more?

**SENATOR CURRIER:** That is my understanding, \$25. It goes up all the time.

**SENATOR COLANTUONO:** Considering that it goes up all the time would it be better to amend the language of this bill to state that the fees shall be the same as a vanity plate rather than restricting it to \$25 and requiring an amendment later if we want to raise it?

**SENATOR CURRIER:** That is a good point. Would you like to send it back to the committee or would you like me to take care of it in the House?

SENATOR COLANTUONO: To answer that question, I would like to do it in the most efficacious manner as possible.

Senator Currier moved to **Lay SB 112-FN** on the table.

Adopted.

**SB 112-FN, IS LAID ON THE TABLE.**

**SB 191-FN**, an act relative to fines and to loss of driver's license and plates for court defaults. Transportation committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: As all of you know we have thousands, make that millions of dollars that are lost by defaults. A default is when a person does not bother to show up in court or does not bother to pay his fine, a default in this case. This legislation, which has brought support from, I believe there was in fact no opposition, makes the penalty for that a little greater. It adds the, well there is essentially three sections. One section which has an amendment that places a \$25 fee for the default letter for the motor vehicle that doesn't pay. The amendment allows the, if they have made an error, to waive that. The second section, provides for the revocation and forfeits your motor vehicle license plates for failure to pay certain fines and it establishes a fund from those fees for motor vehicles that carry forward that work until the fund reaches \$300,000 and then that additional money reverts to the general court general fund. And I would urge your passage as an effort not only to bring violators to justice, but to extract the money that they owe the state before we further reach into the taxpayers pocket for that same money to make up the difference, thank you.

#### **Amendment to SB 191-FN**

Amend RSA 263:56-a, III(a)(2) as inserted by section 4 of the bill by replacing it with the following:

**(2) In addition to the fee required under RSA 261:141, X, and unless waived by the commissioner of safety under rules adopted pursuant to RSA 21-P:14, IV(o), payment to the director of a fee of \$25 as provided in paragraph I-a which shall be deposited into a special fund known as the supplementary administrative fund pursuant to RSA 261:141, XI; and**

Amend the bill by replacing all after section 5 with the following:

**6 New Paragraph; Fees to Supplementary Administrative Fund.** Amend RSA 261:141 by inserting after paragraph X the following new paragraph:

**XI.** In addition to the fee required under paragraph X, whenever a registration has been suspended a fee of \$25 shall be paid for the restoration of such registration. Such fee shall be in addition to



the fees required under RSA 263:42, V. This \$25 fee and all fees collected pursuant to RSA 263:56-a, II(a)(2), RSA 263:56-c, II and any fee collect pursuant to RSA 263:42, V for restoration of a license suspended for defaulting on any offense not specified in title XXI, shall be placed in a special fund, known as the supplementary administrative fund. Moneys from this fund may be used by the commissioner for personnel or equipment or both as necessary to carry out the provisions of RSA 261:180, RSA 263:56-a, and RSA 263:56-c, subject to the approval of the fiscal committee and the governor and council. Any balance in the supplementary administrative fund in excess of \$300,000 as of June 30 of each year shall lapse into the highway fund.

7 New Section; Default Fee. Amend RSA 597 by inserting after section 38 the following new section:

597:38-a Default Fees.

I. Whenever a party recognized to appear for any offense makes default, the party shall be defaulted and the court shall impose an administrative processing fee in the amount of \$50 in addition to any other fine or penalty assessment.

II. The administrative processing fee provided for in paragraph I shall be retained by the court for the benefit of the state.

8 New Subparagraph; Rulemaking. Amend RSA 21-P:14, IV by inserting after subparagraph (n) the following new subparagraph:

(o) Criteria for waiver of the default fee required under RSA 263:56-a, I-a.

9 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill assesses a \$25 fee payable to the division of motor vehicles of the department of safety by any driver who is issued a notice of potential license or resident plate suspension or revocation in this state for defaulting in this state in addition to other restoration fees collected by the division.

This bill also provides for license suspension or revocation and forfeiture of motor vehicle restoration and license plates for failure to pay certain fees.

This bill also establishes the supplementary administrative fund into which are deposited certain license restoration fees collected by the division. The fund is to be used for administering the law relating to suspension or revocation of a driver's license or plates because of a default in this state.

The bill also authorizes courts to impose an administrative processing fee in the amount of \$50 against any person who defaults on a court appearance for any offense.



Amendment Adopted.

Ordered To Third Reading.

### ANNOUNCEMENTS

Senator Blaisdell (Rule #44).

SENATOR BLAISDELL: Thank you very much, Mr. President and members of the Senate. Very seldom do I take the floor on rule #44. I can't remember how many times in the years that I have been here, how many times I have done this, but since I feel that maybe Senator Hough and I, are a little bit responsible for the, not attack, but the speech that was given by the Governor of this state a few days ago. It would be remiss if I did not stand before all of you and say that Senator Hough and I, and maybe some other members are responsible for what happened. In the last session of the legislature, in the budget process especially, we used to kid the University people by saying that they had gone up and made a deal with the Governor of the state of New Hampshire, and I guess probably they did. They agreed on \$114,000,000 and then came down and told us exactly what the figure was going to be or what it should be. Senator Hough and myself, we objected, telling the University that we thought that we were the appropriating body, that we felt that they were, and the trustees should be responsible to go to the legislature and tell us the needs of the University system and then it would be up to us, as the appropriating body, to make that decision. Well it would seem that from the kidding and talking to the trustees and I guess Jean White, former Senator Jean White, will tell you that I kept arguing with her about making a deal or something like that and laughing. They took us seriously this time and the University came into the House Appropriations and told them exactly what they felt they needed to run the University of New Hampshire, Keene State, Plymouth. I applaud them for that. Because it was at the direction of the Senate Finance Chairman, and the Vice Chairman that they at least did not bypass the process. And I think for those of you who were here in the last session under Senator Bartlett, when we started a system here having a Senate position on the budget. We didn't care what the Executive branch was doing and we didn't care what the House Appropriations was doing, we cared what this Senate was going to do. So we were trying to protect that position. So I told the people of the University that if I was the Chairman of Finance or I was a member of Finance I would appreciate if they would come and place before the appropriating bodies, which is the House and the Senate, what the University needed to make our Universities strong. Obviously, they did that and I feel

responsible and I guess I have to apologize for Senator Hough and I, for putting the University in a position in which is not too comfortable for them today. I'm also sorry that the Governor had to take apart some people who have worked long and hard for the University. One lobbyist that he spoke of has been a good friend of ours for a long, long time and works very hard. I am deeply sorry that I put them in that position and Senator Hough also, for putting them in that position. But again, I do this and I speak to you because I feel that this Senate, this Senate should have a position. I know that under Senator Bartlett, and I know under Senator Dupont, that this will continue. That you and I will make the decision in this room. It will not be made in the Executive branch of government. We are separate. So I speak to that just to let you know where I come from and what we did and to apologize to the trustees of the University and also to the Presidents of the University and the Chancellor. Probably getting him into a problem that they don't particularly appreciate today. But they did it because we insisted as the appropriating body at least that they would come to us first, let us make the decision and we would make a decision and give it to the Governor and then he could make his. I feel that it should go on the record and let people know exactly where they were coming from and I am sorry that we put what I call one of the greatest assets we have in this state, the University of New Hampshire and the University system under such cruelty, and I am very sorry about it. But I thought that you ought to know where we were coming from.

### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, February 21, 1991 at 1:00 p.m.

Adopted.

**RESOLUTION**

Senator Currier moved that we adjourn until Thursday, February 21, 1991 at 1:00 p.m.

Adopted.

**LATE SESSION****Third Reading and Final Passage**

**HB 51-FN**, an act relative to the normal contribution rate for retirement system members and establishing a committee to study retirement system benefits and making an appropriation therefor.

**SB 68-FN**, an act relative to the transportation of animals in open trucks.

**SB 78-FN**, an act relative to loans to municipalities from state revolving loan funds.

**SB 85-FN**, an act relative to women's sports.

**SB 106-FN**, an act relative to anatomical gifts.

**SB 150-FN**, an act relative to partnerships and relative to foreclosures.

**SB 191-FN**, an act relative to fines and to loss of driver's license and plates for court defaults.

**SB 224**, an act relative to increasing the bonding authority for industrial development projects for the city of Dover.

Senator Currier moved to adjourn.

Adopted.

Adjournment.

*February 21, 1991*

The Senate met at 1:00 p.m. A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, help us each day to meet the needs of our salvation! Help us to reach an amicable solution with all the yeas and nays on taxation and the budget! Have a restful and happy time on your recess and enjoy yourselves. Amen.*

Senator Hollingworth led the Pledge of Allegiance.



## INTRODUCTION OF GUESTS

### INTRODUCTION OF SENATE BILLS

RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Concurrent Resolution number 3, shall be by this resolution read a first and second time by the therein listed title, laid on the table for printing and referred to the therein designated committee.

**SCR 3**, urging the New Hampshire Supreme Court to give preferred status to appeals of adoptions. (Podles, of Dist; 16 to Judiciary)

Adopted.

### MOTION OF RECONSIDERATION

Senator Delahunt moved Reconsideration on HB 51-FN.

**HB 51-FN**, an act relative to the normal contribution rate for retirement system members and establishing a committee to study retirement system benefits and making an appropriation therefor. Insurance Committee. Senator Delahunt for the committee.

Adopted.

**SENATOR DELAHUNT**: On Tuesday, I rose before you and asked that you amend an amendment to HB 51. This amendment changed the assumptions for the funding of the retirement system from those offered by the House and increased the total cost of this funding over that approved by them. At that time discussions with the House indicated that they were not in favor of the Senate's version of the bill. However, as I mention Tuesday, the Insurance and the Finance committees believed that the House figures overly deflated the cost to fund the system. From the outset it has been the intention of both the House and the Senate to expedite this matter so as to allow the communities of our state the ability to approve budgets based on these revised rates. It is this reason why I ask you to reconsider our actions of two days ago and approve the amendment which you now have before you. This amendment is a result of discussions between the Senate and the House, again changes the assumption you need to fund the system. These new rates are based on figures which have been updated since our previous action and are acceptable to the House. Specifically, this amendment no longer splits out the cost of Groups I and II. Rather, it sets the same assumption rate for both groups, 9¾ percent for the interest discount rate and 6¾ percent for the average salary scale. The House version had set these assumptions at 10.7 percent for both groups and the previous Senate version set them at 10.7 percent for Group I and 8.6

percent for Group II. This change results in a total cost of \$31.6 million as opposed to the \$37.1 million found in our amendment of two days ago and the \$27.3 million found in the version sent to us by the House. This compromise is consistent with the Senate position of maintaining the integrity of the system while continuing to recognize the financial impact that employee contribution rates can have on the cities and towns of New Hampshire. I asked that you accept this change and urge you to adopt the committee amendment. Thank you.

SENATOR SHAHEEN: Using the \$31.6 million, what will be the additional percentage cost to communities beyond what they paid last year?

SENATOR DELAHUNTY: Senator Shaheen, I think that the funding level up to \$31.6 million is consistent with the same level of dollars of what was last year.

SENATOR NELSON: I guess I'm not too clear on what's happening, but I know you have, two people have, attempted to say what's happening. How does this impact the second year on the locals?

SENATOR DELAHUNTY: This is for a one year basis only. It also sets up the study committee which will supply with the years period to establish the rates for the ongoing years; for the next, probably twenty years. So the impact, this sets the rates for the one year period only. It does not touch the second year.

SENATOR NELSON: Does that mean that we are coming back again next year and setting new rates?

SENATOR DELAHUNTY: Yes Senator, it does. It will be a definite impact on the municipalities next year, but it will be consistently spread over a 20 year plan.

SENATOR NELSON: It was my understanding that the package that we had before, the rates that we just passed, it would be O.K. the first year, but it was the following year that everything would go out of sight, that the rates would be very high. I'm just wondering by doing this, are we doing anything to help that process?

SENATOR DELAHUNTY: I think what we have done Senator, originally when the House bill came over, it came over at \$27.3 million, which we felt was too low. What we have done is funded it the same level at last year with the study committee going in and the approach from the previous plan was spread out, I believe, over eight to twelve years and it looks like the next study plan to put the new program together it will run 18 - 20 and it will help to bring the cost down, but there will be an increase in cost. Who knows how much the original projections were around \$73 - \$74 million.



Senator Delahunty offered a floor amendment.

### **Floor Amendment to HB 51-FN**

Amend paragraph I of section 1 of the bill by replacing it with the following:

I. The normal contribution rates for each member classification in the New Hampshire retirement system shall be determined using the aggregate funding method reflecting both current and anticipated future members of the retirement system. The actuary shall determine the normal contribution rates for group I and group II, employing an interest discount rate of 9¾ percent, compounded annually, and salary increase assumptions which shall average 6¾ percent annually.

Amend subparagraphs I(d) and (e) of section 3 of the bill by replacing them with the following:

(d) The chairman of the senate insurance committee, or designee.

(e) The chairman of the senate finance committee, or designee.

Floor Amendment Adopted.

Senator Heath (Rule #42).

### **SUSPENSION OF THE RULES**

Senator Delahunty moved that the rules be suspended to put HB 51 on Third Reading and Final Passage at the present time.

Adopted.

HB 51, is on THIRD READING.

### **COMMITTEE REPORTS**

**SB 147-FN**, an act relative to foundation aid levels. Education committee. Inexpedient To Legislate. Senator Disnard for the committee.

**SENATOR DISNARD:** The committee voted inexpedient to legislate; however, I think the Senators should understand the message was loud and clear to the Education committee that there is a lot of dissatisfaction with the present method of allocating the \$47,000,000 foundation aid. It does need study and I understand that there are two other bills coming along through the legislative process to discuss this and call this to our attention. In my opinion it does need reviewing, it does need amending, but this was not the particular bill to do it.

**SENATOR NELSON:** I rise to talk about SB 147, and although I know it's inexpedient to legislate, I appreciate the difficulties of the wording of the language and the problems and the only reason I feel



very comfortable not saying more is that I commend Senator Disnard and those who co-sponsored, Senator Shaheen and Senate King and Senator St. Jean, for sponsoring that. The Governor evidently saw this piece of legislation and is going along with increasing the funding for the \$47,000,000. So on that ground I would say, I would like to commend the Education committee and the Chairman.

Committee Report Adopted.

**SB 175-FN**, an act relative to foundation aid and making an appropriation therefor. Education committee. Ought To Pass. Senator Disnard for the committee.

**SENATOR DISNARD:** This bill is very clear. I am happy to indicate that you all heard the Governor's message and the similar wording amount of money is in the Governor's message. When this was first presented, drawn up, it did not appear that this would occur. What this bill indicates, when the Lottery Commission indicates to the state the amount of money that will be available for distribution next year and each of the following years until this might be changed. The general fund will make up the difference if a difference is needed between the amount of money the lottery generates, the lotteries generate and \$47,000,000. That's the same amount of money that is being distributed this year. Some call it level funding. I don't know if I would say that, but I hope that you will understand it doesn't mean each community or school district will receive the same amount of money as this year because the formula is based on the population, number of pupils, the assessment in a community. But the total amount of money to be distributed is \$47,000,000.

**SENATOR COLANTUONO:** Senator Disnard, there is a suggestion in the fiscal note that this bill might not be necessary because this guarantee is already provided or rather the mythology. This guarantee is already provided for by RSA 284:21, could you comment on that?

**SENATOR DISNARD:** Yes, I would like to comment. First of all if you should look up 284:12 J RSA, you would find that it refers to dogs and cats, it should be 284:21 one and the two are reversed. It's lottery money that the rule, RSA indicates amount of money must be spent. It doesn't indicate however, in that particular RSA how much money. So it refers to the previous year. So some of us interpret that \$47,000,000 must be raised anyway through the lottery and the general fund because that was the money the previous year.

**SENATOR COLANTUONO:** In your report Senator, you made reference to each year thereafter. Was it the intent, was it the committees understanding of this bill that it should bind all future budgets until this law is either repealed or changed?

SENATOR DISNARD: Or change the amount of money, correct. That wasn't the intent of my bill, but that is what the RSA says.

SENATOR COLANTUNO: Well is the intent of your bill to bind next year only or to bind all future years till changed?

SENATOR DISNARD: Each year until it is changed and I will assume it will be for the next two years because this legislature can't speak for the following legislature.

SENATOR HOLLINGWORTH: I am going to vote in support of this bill, but I hope it is clear and I would like it to be on the record that this is to continue the level funding that we now have because of the problems that are facing the state. It is not my intention to be supporting this. I think we should be aiming for full funding as soon as the state becomes able to do so and I would like that to be clear in the record that that is my intention and, I hope, the rest of the Senate body.

Adopted.

Referred To Finance (Rule #24).

**SB 225**, an act relative to the higher educational building corporation and loan eligibility. Education committee. Interim Study. Senator Disnard for the committee.

SENATOR DISNARD: The committee recommended interim study. There was questions raised by some of the people who spoke. They felt that they couldn't be answered at this time and the best way to study it was to put it in interim study and people from all the areas could sit down and try to have a meeting of the minds.

Adopted.

**SB 225**, is SENT TO INTERIM STUDY.

**SB 124-FN**, an act to reinstate the state committee for mosquito control. Environment committee. Inexpedient To Legislate. Senator Russman for the committee.

SENATOR RUSSMAN: Thank you. We had one person testify in favor, Zig Freed. Zig, I believe his name is, is from the University and he testified at this committee. This committee has not met for five years now. Groups that meet on a yearly basis and in essence the question was raised what would happen if some serious outbreak took place and Mr. Zig said he would be called in any event. We felt that it wasn't necessary so we voted it inexpedient to legislate, unanimously.

Adopted.



Committee Report Adopted.

**SB 21**, an act establishing a commission to study and recommend the elimination of state-mandated programs. Executive Departments committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This is one of the several bills relating to so-called mandates and it simply establishes a commission at no cost to the state because it's going to be consisting of volunteers from various branches of local governments and so forth to study existing mandates and to recommend their removal from the statutes or the rules. They're going to meet and issue quarterly reports with the first report submitted on or before January 1, 1992. The committee recommends ought to pass.

**SENATOR NELSON:** Senator Colantuono, I was just curious in that here we are, the government, now taking outside agencies and asking them to do something and will there be a cost for the New Hampshire Association of Counties to get involved in this in terms of the clerical staff, the paper that is going to be used, the amount it's going to cost to process it, the amount it's going to cost to use the stamps and the mailing with postage at 29 cents, the amount of gas that these individuals are going to have to travel and the amount of time that they are going to have to leave their job, do you think those cost, who should bear those cost?

**SENATOR COLANTUONO:** Well I should have addressed the amendment. The amendment took out the reference to the New Hampshire Municipal Association and simply said that two city town or officials, it also took out the reference to the New Hampshire Association Counties and substituted simply two County Commissioners. The intent, the committee's understanding of this was that the commission would establish a way to meet and issue it's reports. I think if it needed some help it would find it in a way that would accommodate the members because the whole intent of this is to satisfy the people who work in the cities and towns who are complaining about the mandates and we are giving them the opportunity to come to us and tell us what they want us to remove.

**SENATOR NELSON:** Thank you, Senator.

### **Amendment to SB 21**

Amend RSA 19-D:1 as inserted by section 1 of the bill by replacing it with the following:

19-D:1 Commission Established; Duties.



I. A commission is hereby established to identify programs or responsibilities mandated or assigned by the state to political subdivisions which the commission may recommend for elimination from law.

(a) Two town or city officials, appointed by the governor and council.

(b) Two county commissioners, appointed by the governor and council.

(c) Two school board members, appointed by the governor and council.

(d) Two teachers in New Hampshire, appointed by the governor and council.

II. The members of the commission shall receive no compensation.

### AMENDED ANALYSIS

This bill establishes a commission to identify mandated or assigned programs or responsibilities which the commission may recommend for elimination from law. The commission is composed of town or city officials, county officials, New Hampshire school board members and New Hampshire school teachers.

On a quarterly basis the commission shall report to the speaker of the house, the senate president, the governor and the appropriate standing legislative committees and recommend the repeal of certain programs or responsibilities.

Amendment Adopted.

Ordered To Third Reading.

**SB 31-FN-A**, an act recodifying the laws relative to real estate brokers and salespersons and making an appropriation therefor. Executive Department. Inexpedient To Legislate. Senator Fraser for the committee.

**SENATOR FRASER:** SB 31-FN-A, is a 32 page document, Mr. President. An act recodifying the laws relative to real estate brokers and salespersons and making an appropriation therefor. It was the unanimous opinion of the committee Mr. President, that this bill did a lot of things, but one thing it didn't do was to recodify the laws. We had people from all walks of life involved in the hearing opposing the bill because all of a sudden they found out that they were being addressed under this bill. So the committee unanimously voted that the bill be reported out as inexpedient to legislate.

Committee Report Adopted.

**SB 46**, an act relative to placing political signs along state highways.

Executive Department committee. Inexpedient To Legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill was a response to certain problems that arose in one of the campaigns last year; however, the committee felt in considering all the other problems that this bill could cause, that it wasn't in order to pass it and, with the concurrence of the sponsor, the committee recommends inexpedient to legislate.

Committee Report Adopted.

**SB 62-FN**, an act relative to licensure of athletic trainers. Executive Department committee. Inexpedient To Legislate. Senator Fraser for the committee.

SENATOR FRASER: This is a bill, a licensure bill for athletic trainers. We had extensive testimony in favor of the bill and we had people who appeared in opposition to the bill. What the committee, by the way the vote was split on this bill Mr. President, it was not unanimous. What we determined, at least those of us who voted to report the bill out as inexpedient to legislate, that ultimately, we felt that this bill could cost the cities and towns more money to provide the kind of athletic training services that they do now on a voluntary basis or for a very low amount of money because all of these people who are working in these small towns and cities for that matter are working people of professional positions and we didn't think the bill was necessary.

### SUBSTITUTE MOTION

Senator Currier moved to **substitute Ought to Pass** for Inexpedient to Legislate.

SENATOR CURRIER: I rather reluctantly addressed the body as Chairman of this committee, but having been the only member of the Executive Department's committee that served previously on that committee, there was a bill last session that the Senate passed on to the House that had athletic trainers in it. One of the things that the House suggested that we do to make it a cleaner situation in terms of licensing was to include that bill as a bill separate on its own merits. So I worked all summer long with a large number of athletic trainers, the Board of Registration in Medicine and orthopedic clinics and others, in an attempt to put together a clean piece of legislation dealing with the licensure of athletic trainers. There are a number of athletic trainers that are in the balcony today. They represent just about every district in the state. One through twenty-four. The bill is a clean bill, it is not a mandate. My name would not



be on it if I thought for one minute it was a mandate. As I said, I am a little reluctant to get up as Committee Chairman and go against my committee, but I really feel strongly about this particular issue and considering all the thoughts that went on a little while ago, I can just anticipate the questions that might come forward from this point on regarding this particular measure, but I would be happy to entertain any questions regarding the specifics of the bill.

SENATOR NELSON: I had thought that I could support this bill and may continue to support it if I can get an answer to this one question and I apologize to anyone in the body I might have indicated it to without having seen this page. On page four of the bill I am interested in this immunity from civil action and I just wish you could mention that because it seems to go against any other person for, or any reason, or any statement. I mean it seems more general than anything I've seen come before the Judicial committee in terms of immunity. I just wondered if you might just comment on that.

SENATOR CURRIER: Excuse me, what page is that on?

SENATOR NELSON: Excuse me Senator Currier, page four, line 16 of the bill. I am sorry too, although you did welcome these questions you said.

SENATOR CURRIER: This piece of legislation was drafted with the guide of the Board of Registration and Medicine who also handles other licensing groupees. And so it basically, it's an immunities provision for members who serve on the board who would be regulating the, does that answer your question Senator?

SENATOR NELSON: That's great, thanks.

SENATOR PRESSLY: Senator Currier, if my recollection is accurate I do not remember a single person speaking from the public, speaking in opposition. My recollection was total support from all members of the public that attended the hearing, is that correct?

SENATOR CURRIER: You are correct Senator. I don't believe that there is anybody who spoke against the bill and I have not received any correspondence against the bill. Basically, during the executive session that concerns, regarding the bill, came up as part of the executive session on the bill with members of the seven member Executive Department committee. I think there is a philosophical difference between the Executive Department's committee of today and the Executive Department in the past in that since that the most part four to three anyway. The Executive Department's committee is basically against licensing provision because, in the words of one committee member, it's restraint of trade. I mean that's a



whole philosophical debate that could take hours and hours, but it's my hope that we will pass on this bill.

SENATOR BASS: Senator Currier, are there any athletic trainers that you are aware of that don't have a bachelors degree, in other words would the passage of this bill automatically exclude any individuals who may qualify just because they have not completed college?

SENATOR CURRIER: My understanding Senator, is that in order to become an athletic trainer you, that is a requirement of the profession in terms of the national standards that are now set.

SENATOR BLAISDELL: Mr. President, and members of the Senate. I rise in support of Senator Currier's motion. I don't like voting against Senator Fraser, I guess I never have since I've been in this legislature, but I do remember this bill coming before us in the last session of the legislature. We sent it along thinking it would come back. This summer, you know, I officiated for over 30 years in football, baseball, and basketball at the high school level and also, basketball and baseball at the college level. I think this is long past due. I give you an experience as a football official of diving over a pile of people stopping someone from picking up someone's leg that's on the ground that obviously, had a compound fracture and save that boy from being crippled for the rest of his life. My grandson last year in football, at Keene high school, broke his leg and I thank god that there was someone there that had the ability and the training to be able to recognize that he almost had a compound fracture and he now has a rod in his leg and he's come along well. So I think this is long past due. I think that any money that would be, the cities and towns would be looking at this, certainly could be saved in some of the lawsuits that could happen by someone touching somebody on the athletic field. As an official the cardinal law was that you never touch anybody who is hurt on the floor, on the field, on the baseball field, you never touch them and we never did. We just were very sure that nobody else did until we had someone who was there that was competent to be able to take a look at that boy or that girl that was hurt. So I support it and I would hope that Senator Fraser, that we can still be friends and that I would hope that you would support it in this Senate. Thank you.

SENATOR HOUGH: I to arise in favor of the Currier substitute motion of ought to pass. I have no problems voting against Senator Fraser, I enjoy sitting to his left. But I would tell you this, each and every one of us in this Senate, are citizen legislatures and we bring to this body our own unique backgrounds and experience. In spite of what you might think of the Dean of the Senate as a Senator, we

must recognize that here is a gentlemen that has dedicated all of his life to young people and athletics and in this one area he knows from which he speaks. He's committed. He's worked with young people, he's officiated games intercollegiate, interscholastic, little league games, all of his adult career. Clearly the support, the knowledge, and the background that he brings to this piece of legislation cannot be ignored. Clearly I rise in support of this legislation with the recognition that I have been contacted by the members of the Athletic Department at Dartmouth College and that should be a surprise to no one. They are professionals, they are committed to the proper treatment of sports medicine and they support this bill, so would you have me vote any differently. That aside, I remember two falls ago in late October under the lights that my own daughter suffered a severe concussion in Senator Disnard's town and it was only through the knowledge of knowing what not to attempt to do that my daughter was able to be transported to Senator Disnard's hospital and in spite of a very severe and frightening head-on collision that gave her a paralyzed concussion for a number of hours and thank god she came out of it as smart and as active and as vibrant and as beautiful as she went in. Had someone else attempted, in ignorance, to come to her assistance we could have had a tragedy in our own family. We are all committed to athletics, we are all committed to the competitive spirit of young people, we love to participate, we love to work with them, we love to encourage them. But there is danger. There is inherent danger in athletics and we must recognize that those who attend to sports injuries must have the training, the recognition, and the licensing so that tragedies can be prevented. I support the Currier substitute.

SENATOR SHAHEEN: Senator Currier, how does this bill affect the average public school district which has an athletic program? But I assume at least in the case of my school district where I live, I don't assume that our athletic director or any of their coaches are athletic trainers?

SENATOR CURRIER: That is correct. I think part of the problem in terms of those who think there may in fact be a hidden mandate here. Is the fact that people who are known to have first-aid training that are working with athletes in a program are not "athletic trainers?". They are people who are working in athletics who had first-aid training. There is a major difference there. There is no indication in this bill or anywhere else that we are mandating that you know because you have athletic programs that you are required to have athletic trainer on board. There is nothing in this bill to construe that.

SENATOR COLANTUONO: I feel incumbent as a member of the committee to give some of the reasons behind the committees rec-



ommendation. First of all, the question always arises when you are faced with a licensing bill, why do you need licensing? New Hampshire has gotten along for two hundred years without this and we have had athletic trainers in this state for many, many years as long as we have been playing sports probably, and we have always got along well without it. We have a lot of good athletic trainers in this state, there is no question about it. But why all of a sudden in 1991 do you need licensing? So the test becomes, is the case made that there is a public health problem out there that needs to be addressed? I sat through that whole hearing and I heard all the athletic trainers come and speak in favor of this and they are a fine group of individuals, well trained and well qualified and deserve some recognition. I heard references made to the horror stories and so forth, but did we hear any concrete evidence? Evidence that would convince somebody that they should vote for this bill, that there is a problem that the legislature of the state of New Hampshire should address by officially sanctioning certain members who become licensed and disqualifying every other person in the state of New Hampshire from ever touching a student athlete. I would direct your attention to the very broad and explicit definition of athletic trainer at the top of page two. It says an athletic trainer means a person who, upon the direction of a licensed team or consulting physician, practices athletic training on injuries incurred by individuals who participate in any sports program conducted by an educational institution, professional sports organization, or sanctioned amateur athletic organization, or in any recreational sports activity. So this reaches into the schools, public, private, all the way down to the junior high level. It even reaches into the private health clubs and it reaches into the recreational sports clubs. Such as, even little league probably. The effect of this bill therefore will be, once it's passed any person who does not hold an official state license cannot do anything. They could easily be construed as athletic training on any of these children or adults. And the reason why we are saying that it isn't necessarily a direct mandate, but it will have the effect of a mandate is because Senator Shaheen's school districts and all of our school districts who have sports teams and who need people to help out the athletes are going to be faced with a quandary once this bill passes. They are either going to have to come up with the additional money from the taxpayer to hire licensed athletic trainers and everyone knows that once you license a group the pay goes up or they are going to have to do without. The committee majority felt that was an unfair quandary to put our towns and schools in because we like our sports programs in our schools and we don't want to harm them. Now we also have, and Senator Currier mentioned, a number of members of the committee have a basic philosophical ob-



jection with licensure programs unless there's a real demonstrated need. Licensure always advances monopolistic interest and harms free competition. There's always a middle step of registrations, certification or some other means by which identify people who have special knowledge in training and therefore should be able to get the jobs at the universities and get the higher paying jobs at the school districts that want to hire them. But you don't want to exclude a whole class of people now. Senator Hough's case was a perfect example. Right now whoever attended to the case of Senator Hough is by definition not a licensed athletic trainer, but if that person didn't become one they wouldn't of been able to help his daughter in this case. If we didn't have a licensed athletic trainer on the scene there could have been a problem and that's an area that scenario is going to play out over and over again if this bill passes. So I know that Senator Currier put a lot of work into this bill and there is a group that's really fighting for it. I almost got tackled on my way over here, I would have needed an athletic trainer, I came through the tunnel. But those are some of the reasons Mr. President, why the committee majority issued its report.

SENATOR PRESSLY: Senator Colantuono, I'm not sure if I heard you correctly. Did I hear you say that there was no testimony that there was harm that was done to individuals?

SENATOR COLANTUONO: What I said was we heard references made throughout the testimony about the horror stories, but there wasn't specific evidence that I was convinced by. My memory is starting to jog about Senator Pressly's situation and her aid. I think her aid. But I am not sure of that, did something bad happen to her?

SENATOR PRESSLY: Senator Colantuono, would you believe that one of the interns that has been assigned to the Senate from the University of New Hampshire has just recently undergone shoulder surgery on one shoulder and is now, will have to have another operation and it was a result of injuries that her current surgeon has told her was preventable. It was a case she was not fortunate enough, as Senator Hough and his family, because the injury that was preventable has taken place and because of this she will be unable to participate in many of the sports that she had planned to and it has drastically changed her life, to say nothing of the cost factor. We are talking up in the 20's of thousands of dollars. It's a very sophisticated type of surgery that is being done out-of-state. Would you believe?

SENATOR COLANTUONO: I would definitely believe that, but I would also believe that if young people who are playing sports in our

high schools don't have any assistance because their schools can't afford to pay for a licensed athletic trainer more situations like that may arise in this state.

SENATOR W. KING: My apologies to Senator Pressly's intern because I am going to rise in favor of the committee report against Senator Currier's motion. Let me tell you why. I think that Senator Pressly, her intern, Senator Currier, and others who have spoken in favor of the substitute motion of ought to pass have good intentions. They want to make sure that people who are calling themselves athletic trainers are indeed athletic trainers. But that is, but good intentions is not going to solve the problem here because the bill is seriously flawed, if you think that's what this bill is going to do. Let me reiterate for one moment Senator Colantuono's point because I think it's very important. You start out by saying an athletic trainer means a person who upon the direction of a licensed team or consulting physician practices athletic training. It then goes on to define what athletic training is. Athletic training is the prevention of athletic injuries. Now, couldn't a coach be practicing the prevention of athletic injuries when he tells, I'm going to just try and pull an example out of the air, when he tells one of the team members how to stretch so that they don't injure themselves. Education and counseling of athletes, that's pretty broad. The problem when we set up licensure in the state of New Hampshire is that we give a board tremendous powers to increase the definition of what that practice is and this definition is so broad already that it is going to result in, I think, a lot of bureaucratic nightmares. Let's go to page eight where it says, where it describes the offenses. It shall be a misdemeanor for any person to impersonate in any manner an athletic trainer. So it's going to be a misdeameanor if you practice education and counseling of athletes, or if you do anything to prevent athletic injuries, or if you do anything in terms of rehabilitation of athletic injuries. It is going to be a misdeameanor, also if you knowingly employ an unlicensed person to practice as an athletic trainer. Now the question is if my school district or if a school district employs an individual who doesn't call himself an athletic trainer, but just happens to do some injury prevention activity or some kind of counseling or education of athletes, are they in line for a misdeameanor complaint against somebody who wants to make sure that school system is employing somebody who is paid at a higher level and calls themselves an athletic trainer? Folks, I believe Senator Currier probably has the votes here, but what we will be passing over to the House and the Senate, will be an administrative nightmare for our cities and towns. It will be an administrative nightmare for anybody who is employing people in the area of athletics. I suggest that there is probably a way



that we can salvage this bill if Senator Currier is willing to do that, but he doesn't seem to be willing to do that so I am going to vote against it.

SENATOR HUMPHREY: Mr. President, the lawyers and lawmakers are fond of saying hard cases make bad law and it's true that one hard case was cited in the hearing of the Executive Departments' committee in connection with this bill. The victim of that hard case being present on the floor. But sometimes even hard cases reveal, are revealing when you take a closer look. In response to my question to the witness it became evident that this person was subjected to, malpractice over a period of four years. This wasn't a case of someone lying on the floor and being moved when she shouldn't be moved. But was subjected to, or at least allegedly subjected to, malpractice over a period of four years. Before she sought professional medical care in the sense of the physician. Well you know you have to leave some responsibility with parents and some responsibility with young people. You can't protect people from every last danger to themselves. You have to leave some room for judgement, some room for freedom. That's a point I want to raise and will raise over and over again. I don't think, I think there are very few nations that have ever lost their freedom in one fast swoop, except perhaps by military conquest. Instead, nation's lose their freedom year by year just little by little, year by year, month by month, week by week, day by day and, my colleagues, bill by bill. Every bill should be measured against that standard. I remind myself of that standard every day. Is there really a pressing need for licensure of athletic trainers in this state. This isn't just certification, its licensure. An exclusive excluding procedure. I don't think there's been a case made. Yes, there are occasional hard cases, that's true. But hard cases make bad law and furthermore, you don't have to be licensed to know that you don't move somebody with a compound fracture or someone whom you suspect has a brain concussion lying there unconscious or dazed. You don't need to be licensed for that. The last point that I would like to make is that yes, we all know there's been a massive intense lobbying effort in behalf of this bill. I'd say it ranks right up there with leg tracks and certification of nutritional counselors. But ask yourself this, apart from those who will benefit by the elevation of their professional stature and of their pay, apart from that how many parents have contacted you asking that you support this bill out of concern for their children? I can't think of a one. Now maybe some of you have been contacted by parents, but I have gotten a pile of letters from those who will benefit because their professional stature will be elevated and not incidentally their pay as well. So I am glad to join with Senator King, Senator Colantuono, Senator Fraser, mem-



bers of the committee in opposing this. I am not glad to oppose our Chairman, we don't oppose our genial Chairman lightly, but we think in this case for good reason.

Senator Blaisdell has moved the question.

Motion of Ought to Pass is Adopted.

Senator Humphrey called for a Roll Call.

Recess.

Out of recess.

Senator Roberge seconded the motion.

The following Senators voted Yes: Oleson, Heath, Hough, Currier, Disnard, Blaisdell, Bass, Pressly, McLane, Podles, J. King, Russman, St. Jean, Shaheen, Cohen.

The following Senators voted No: W. King, Fraser, Roberge, Nelson, Colantuono, Humphrey, Delahunty, Hollingworth.

Yeas: 15

Nays: 8

Ought To Pass Motion Is Adopted.

Referred To Finance (Rule #24).

**SB 97**, an act relative to administrative rules and state mandates. Executive Departments committee. Ought To Pass. Senator Currier for the committee.

**SENATOR CURRIER:** This is a one page bill which basically adds a provision that when making administrative rules that a division or department or all those inpowered to make administrative rules shall include a statement that proposed rules shall not violate the New Hampshire Constitution, Part 1 Article 28a and provide documentation that in fact does not.

**SENATOR DISNARD:** Senator Currier, would you believe the Attorney General's Office was asked as the legal counsel for the Executive Departments as indicated in a committee that I served on this year. Any mandate that involves a municipality as well as an industry is not considered by the Attorney General's Office as a mandate.

**SENATOR CURRIER:** Any rule, is that the question?

**SENATOR DISNARD:** Any rule or any mandate if it effects a municipality as well as an industry or a business, the Attorney General's Office is not looking upon it as a mandate, so I don't know how many honest answers you are going to get.

**SENATOR CURRIER:** Yes, I understand the complexity and the seriousness of the Attorney General's ruling regarding a number of these issues with regard to mandate and the Attorney General is a

close personal friend of mine. And like my wife, I don't always agree with my what my wife believes in either, but I have a real serious problem in that I think that administrative rules are in fact, are creating mandates for the local municipalities and this is just one easy attempt to have those people who are making rules make a conscience look at the rules so that they can in fact say that they are or they are not and then it becomes a court issue and not an interpretation of the Attorney General, with all due respect to the Attorney General.

SENATOR NELSON: I would just say as a member of the Administrative Rules committee for the last four years, I would like to assure Senator Currier that there are two Attorney's who sit on that committee: Scott Eaton and Richard Nusbaum. And one of their major functions is to read the legislation and if at any point in time anything looks as if it could interfere with, 28a, as has been the case recently, it was brought to the committees attention and brought to the departments attention. But I have no difficulty in having them, having this in here, but I wanted to reassure you that at present, on the Administrative Rules committee, that is being done and two attorney's are looking it over. As a matter of fact I would even say it should, in the corner is what Senator King said, it should say local. That they should say whether they think it's going to affect it. I just wanted to say that.

Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

Senator Currier in the Chair.

**SB 93**, an act relative to arraignments of juvenile delinquents. Judiciary Committee. Inexpedient To Legislate. Senator Podles for the committee.

SENATOR PODLES: SB 93, was a request from DCYS. It was supposed to clarify a timing problem, but it's unnecessary because if a judge in a district court enters a not true plea and there's no time to get an attorney there shouldn't be this timing problem. In fact, should SB 93, pass there could be a delay in the system and a delay in the juvenile speedy trial. The committee recommends inexpedient to legislate.

Committee Report Adopted.

**SB 94**, an act relative to confidentiality in child abuse and neglect cases. Judiciary committee. Inexpedient To Legislate. Senator Holingworth for the committee.



SENATOR HOLLINGWORTH: The Judiciary committee unanimously recommends this bill be voted out inexpedient to legislate. We believe that there are other pieces of legislation coming before the Judiciary committee that can better answer the problems addressed in this bill.

Committee Report Adopted.

**SB 104-FN**, an act relative to appeal of adoption decrees. Judiciary committee. Inexpedient To Legislate. Senator Russman for the committee.

SENATOR RUSSMAN: Yes, on this one we decided to go with a Resolution of the Senate, and that's what we did, matter of fact. I think that is what is before you urging the Supreme Court to give preferred status adoption. We felt that in statutory form with a separation of the Executive and the Judiciary branch that it would perhaps be meaningless, or worse, if we passed it and, given the Resolution, that would be the best way to get the Supreme Court perhaps to look at that in terms of expediting the hearings. So we thought that it should be inexpedient to legislate.

SENATOR HEATH: Senator Russman, I'm just curious what is an appeal of adoption?

SENATOR RUSSMAN: Well it can be a variety of things, but generally it might be a situation where a child is in limbo really as to whether the adoption could be complete or not, particularly in cases where the termination of parental rights. And then there's an adoption at that point, if there is an appeal taken it could be several months or three quarters of the year before they have a decision whether or not the termination is final, the adoption is complete and so it does put everybody in a, the child particulariy in a tough position. Even the families, in terms of where are their lives; is the child adopted or not? So trying to get the Supreme Court to expedite them, I think through resolution is probably the most appropriate way to do it because I don't think that anything we would pass like that is going to make them hear them any faster.

Committee Report Adopted.

**SB 198-FN**, relative to de novo hearings in certain cases involving minors. Judiciary committee. Inexpedient To Legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill was a request of the Division of Children, Youth Services; however, it had significant ramifications. This bill takes away a juveniles' right to appeal a case from the District Court to the Superior Court which they have enjoyed ever



since we have had a juvenile statute. The committee simply felt that the case for this bill wasn't made. The testimony was that only about 25 cases get appealed throughout the whole state during a year. In almost all of those cases the testimony was that the Superior Court's decision was in fact different from the District Court decision which seemed to argue in favor of retaining the right. So for that reason the committee recommended inexpedient to legislate.

Committee Report Adopted.

Recess.

Out of recess.

**SB 219-FN**, an act restructuring the state art fund. Public Affairs committee. Inexpedient To Legislate. Senator W. King for the committee.

SENATOR W. KING: SB 219, is a bill that essentially abolishes the state art fund. The state art fund as you may recall was something that a lot of Senators worked very hard to establish a few years ago. It takes a very small percentage of the bonding money for new construction and new construction only, and uses that to provide arts in buildings around the state. It is a very important thing for the state of New Hampshire. Senator Podles, Senator McLane, Senator Krasker, as you remember, all work very hard to make sure that this was part of the New Hampshire law and that we made a commitment that when the state of New Hampshire built new buildings that a small percentage would be set aside so that those buildings would be nice when you walk into them and that we would be able to have art that adds a great deal to our lives and is very difficult to quantify in terms of dollars. It was the feeling of the committee that originally we were going to simply maintain some of the language in Senator Colantuono's bill which allowed the fund to accept contributions. But Senator Colantuono said that he came to the committee and said that he would rather that the bill went up or down so the committee's recommendation is inexpedient to legislate, because we feel this is a very important aspect and quality of life to the state of New Hampshire.

Senator Bass moved to have SB 219-FN, Laid On The Table.

Adopted.

**SB 219, IS LAID ON THE TABLE.**

**SB 61-FN**, an act relative to speedy payments for the care of children in foster homes. Public Institutions, Health & Human Services committee. Ought To Pass. Senator McLane for the committee.

SENATOR MCLANE: This bill is symbolic, it's symbolic of the fact that the state of New Hampshire has some real problems. And of all the places for the state to try and save money. To not pay the foster homes of those children who are our responsibility is to me utterly despicable. Testimony at the hearing concerned a family in Claremont that had four foster children. The state was six months behind on their payments. They owed them \$3,000 it was before Christmas and there was no relief for this family. The state spends some money, not enough, but some on recruiting foster parents. They train foster parents and then when they're good, they beg them to take one or two or three more children than they originally intended. We are desperate for good foster homes. And I would urge this Senate to send a message loud and clear down to Senate Finance that if the state has got to borrow money, don't borrow it off the backs of foster parents. The amendment which is before you, and I believe I am speaking to the amended version, ask that the payments be made within 60 days and every 30 days thereafter and so that the state can't pay up once and then fall behind again. It is a major problem and I think that if there is one place in this state where we can put our priorities, it is with those that we pay far too inadequately to take care of those children that are our responsibility.

SENATOR COLANTUONO: Senator McLane addressed the purpose of the floor amendment #1620L and it does exactly what she says it does and it addresses the concerns that I had when the matter was last on the floor. But there was a loophole and this clears it up and it does send a strong message we need to send.

SENATOR FRASER: Mr. President, I too, had some concerns about the bill when it was on the floor previously. My question was that there was no sanctions contained in the bill in the event that this bill should become law and there was no way of penalizing the state agency that was involved. I have since learned that there is no way that you can do that so I too, am supporting Senator McLane's bill and amendment.

SENATOR W. KING: I would like to thank Senator Colantuono, and Senator McLane, and the committee for making the corrections necessary to make this bill that we almost lost. But with the good work of Senator Disnard we are able to get it back into the committee and we appreciate your help. Thank you.

SENATOR HEATH: I think every member of this Senate should take a look at something that happened in the process of this bill. The fiscal note essentially talks about all these lawsuits that will be brought in if we pass this law. That is in fact an Admission that that agency intends to ignore this law. I think that we need to have it on



record on this floor with the passage of this bill that that agency had better not ignore this law. They take these children out of homes that have inadequate food, inadequate heat, and so on, and they put them into foster homes and now they are saying we want to have the option of not paying those people who are now taking care of these children for us as wards of the state, and engage in a little bit of subtle child abuse themselves. I think that's an agency that has run amuck and I think that the fiscal note is a statement in advanced to the legislature that they don't intend to adhere to prompt payments to these and I think that they ought to be on notice with this vote that I think is going to succeed here. It's the intent of the Senate to see that these foster homes are payed promptly.

SENATOR OLESON: I'd like to rise in support of the amended bill which is on the floor at the present time. I have an occasion where it comes a little bit close to home in my district. But nevertheless it seems to me that the legislature in the past has set up programs to take care, maybe our number one priority — our children — to take care of them in a timely manner under certain conditions, and then we do as our people, fund several programs. At the present time in my district I have an occasion to keep one of these child care programs going. That people are involved with the corporations of a bank in Berlin. They had to go down and borrow money from a private concern to keep a state program going. I think this is an absolute shame. I think it should be corrected and I think that this bill is a signal that when we set up programs and fund them that the payments to the people involved are going to be payed in a seemly manner. Thank you, Mr. President.

Senator Colantuono offered a floor amendment.

#### **Floor Amendment to SB 61-FN**

Amend RSA 170-F:8 as inserted by section 1 of the bill by replacing it with the following:

170-F:8 Funds. The director is authorized to make payments under this section from appropriations for the care of children in foster homes, to seek and accept funds from other sources including federal, private and other public funding sources and to require the county which would be legally chargeable for the support of the adoptive child, if said child was the charge of the county, to make payments to carry out the purposes of this chapter. The amount expended by any county for any subsidy shall not exceed the amount which would be paid by the county before said child was adopted. **Payments due for the care of children in foster homes shall commence within 60 days of the child's placement in the foster home**



**and shall be made every 30 days thereafter.** In no event shall any county be liable for a subsidy under this chapter if it is not legally responsible for said child's foster care.

Floor Amendment Adopted.

Ordered to Third Reading.

Recess.

Out of recess.

Senator Dupont in the Chair.

**SB 66**, an act relative to durable power of attorney for health care.

Public Institutions, Health & Human Services committee. Ought To Pass With Amendment. Senator McLane for the committee.

SENATOR MCLANE: I move to have SB 66, laid on the table and I do so with some regret because I do think that this is the most important bill that we will have before us this session, and I would ask you in the interim while members of this body studied this bill.

Senator McLane moved to have SB 66, Laid On The Table.

Motion Adopted.

**SB 66, IS LAID ON THE TABLE.**

**SB 128-FN-A**, an act relative to the development of an electronic benefit transfer system and making an appropriation therefor. Public Institutions, Health & Human Services committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, a couple of minutes ago we dealt with SB 51, relative to speedy payments for the care of children in foster homes. Although this particular bill doesn't relate directly to that issue it may in fact be the ultimate answer to the state's problems in delivering payment for service in a timely fashion. This is a novel approach, although not so novel. Other states are working on the same issue, whereby benefits may be paid through the electronic transfer system. Hopefully, ultimately, benefits for medicaid, food stamps, AFDC, child support, enforcements, state supplements, the WIC program and daycare can be administered through computerized bank tellers. The obvious effect of this is going to be a tremendous reduction in fraud and misappropriation of these important state and federal dollars. It will result in reduced cost ultimately within the agency because there will be less hand, manual treatment of the disbursement of funds and ultimately, I think it will, the committee feels that it will result in a fairer and more effective system of disbursement. The committee urges the Senates' adoption of the committee report of ought to pass.

SENATOR SHAHEEN: Senator Bass, can we assume that the money is going to be appropriated to actually make this happen this year?

SENATOR BASS: We certainly hope so, Senator Shaheen.

SENATOR SHAHEEN: Even though there is only a \$1 attached to it?

SENATOR BASS: Yes, under the Senate rules the bill will be sent to Senate Finance and we certainly urge that this be made a part of the budget. The agency is very strongly behind it. The question is to what the cost might be and whether the total amount needed is needed right away. Ultimately, though I think that it will save the state substantial sums of money if the program is enacted.

SENATOR SHAHEEN: Has the department costed that out and do we have any idea of how much they assume they are going to save by doing this?

SENATOR BASS: No, they may have, but I don't have that number.

Adopted.

Referred To Finance (Rule #24).

**SB 140-FN**, relative to rate setting by the Division for Children and Youth Services and by the Department of Education. Public Institutions, Health & Human Services committee. Ought To Pass With Amendment. Senator Podles for the committee.

SENATOR PODLES: The amendment on page 11 is now your bill. What it does is it establishes a committee to study this rate setting for certain services. Both the Department of Children and Youth Services and the Department of Education agreed and admitted that there is a problem and the only way we could do this was to make a study committee from the bill. So that 140 is now a study committee to study rate setting for certain services and the committee recommends ought to pass with amendment.

### **Amendment to SB 140-FN**

Amend the title of the bill by replacing it with the following:

### **AN ACT**

establishing a committee to study rate setting for certain services, placements, and programs.

Amend the bill by replacing all after the enacting clause with the following:

### 1 Committee Established.

I. There is established a committee to study the method of rate setting for certain services, placements and programs provided by the division for children and youth services and the department of education. The committee shall be composed of the following members:

(a) The deputy commissioner of education, or designee.

(b) A member of the bureau of special education, appointed by the commissioner of education.

(c) The director of the division for children and youth services, or designee.

(d) Two senators, appointed by the president of the senate.

(e) Two house members, appointed by the speaker of the house.

(f) The president of the New Hampshire Group Home Association, appointed by such association, or designee.

(g) The president of the New Hampshire Home-based Association, appointed by such association, or designee.

(h) The president of the New Hampshire Providers Association, appointed by such association, or designee.

(i) The director of Granite State Association of Non-profits, or designee.

II. The director of the division for children and youth services or his designee shall, within 30 days of the effective date of this act, call the first meeting of the task force. The committee shall elect a chair from among its members at the first meeting.

III. Members of the task force shall serve without compensation, except that the legislative members shall receive mileage at the legislative rate when attending to their duties on the task force.

2 Duties. The committee shall study the method of rate setting for services, placements and programs provided by the division for children and youth services and the department of education pursuant to RSA 169-B:40, 160-C:27; 169-D:29; 170-G:4, XVII; and 186-C:7, III.

3 Report. The task force shall submit its report with its recommendations, together with any proposed legislation for the 1992 legislative session, to the speaker of the house, the president of the senate and the governor on or before November 1, 1991.



4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study the method of rate setting for certain services, placements and programs provided by the division for children and youth services and the department of education.

The bill requires the task force to submit its report, together with proposed legislation for the 1992 legislative session, to the speaker of the house, the president of the senate and the governor on or before November 1, 1991.

Amendment Adopted.

Ordered To Third Reading.

**SB 86-FN**, an act to create low salt districts within the state highway system. Transportation committee. Ought To Pass. Senator Pressly for the committee.

**SENATOR PRESSLY:** The Senate Transportation committee recommends unanimously ought to pass on this bill. This bill requires a Commissioner of Transportation to establish low salt districts. This concept was supported by many selectmen from many towns. It was also supported by the Society for the Protection of New Hampshire Forest. The committee recommends ought to pass.

Adopted.

Ordered To Third Reading.

**SB 127-FN**, an act relative to removing vegetation obstructing advertising devices and planting lilac bushes. Transportation committee. Ought To Pass. Senator Heath for the committee.

**SENATOR HEATH:** This is a bill that encompasses a couple of amendments to the Federal Constitution. It is a bill that is pro-business in a time that businesses need an opportunity to continue to exist in an atmosphere right now, is business failures throughout the state. It essentially does this, the state licenses the right for your sign to be seen. The sign being on private land across the right-of-way and all of a sudden it decides that you can't cut the trees and the town zones the height of the sign and so taking of property occurs as if mother nature did it by the growth of the trees. Pretty soon the sign is obliterated by the growth of the trees, the business depending on its location withers and one more entrepreneur in America bites the dust or experiences hard times because of it. This

bill attempts to find some middle ground in allowing the continuation of this five second view of a sign. It allows the cutting of the shrubbery and a replacement with lilacs or an adequate and acceptable substitute. So it is, I won't represent to you that it's a beautification project. I would represent to you that it's a litigation. I would also tell you that someone that traveled by car across the country 52 times, little signs that have a little silhouette of a gas pump or a motel or an arch of a McDonald's restaurant is inadequate at 3 o'clock in the morning to tell you that a business is open or where its location may be if it's more complicated than just going down the down ramp. And the signs perform a function. I think we have Constitutional rights as to what we say and I think that on a piece of private property a sign ought to be allowed just as we ought to be allowed to write on the side of our house what we want to, or speak in this forum or in any other place. When you start litigating that, you start litigating the first amendment. The fifth amendment comes in in the taking. This is a taking when the town says the height can remain this level and the state says you can't clear, the combination is a taking of property. It has been argued in committee that why should a person be able to have a business in their backyard because they're adjacent to a major highway. Well the chances are pretty good if you're adjacent to a major highway that they took and hopefully confiscated that land from you. And the other thing is, if you go off every major highway to every intersection there is a gasoline station it wouldn't be there unless that highway was there to allow a farmers backyard to get a little lease money and pay it, by the way, in portion to license fees to the state. It seems to me perfectly acceptable. There won't be a great proliferation of signs because of zoning ordinance and a lot of other things. But for those that exist this offers some protection. More importantly, signs work. That is why people are fighting for signs and they work by bringing people into businesses and that's what we do here in New Hampshire. We have a tourism business, we have a ski business. This is a time when they need all the help they can and I would urge my colleagues in the Senate to give them this opportunity to bring people to their business.

SENATOR HOLLINGWORTH: Senator Heath, when I was on the other side of the wall over there we used to get a bill quite often, over in the House, brought in that was to cut down the trees and particularly it was aimed at Concord to and they claimed it was a billboard bill. Is this the same origin as that?

SENATOR HEATH: I don't know what the origin of that was, so I can't answer that question.



SENATOR HOLLINGWORTH: Well it has been heard, is this the same bill that has been heard in the House and in the Senate over the years?

SENATOR HEATH: To my knowledge this bill has never been heard other than in committee.

SENATOR HOLLINGWORTH: O.K. thank you.

SENATOR CURRIER: Senator Heath, I think one of the, I have a question regarding the fact that you have indicated over the business interest in this, but one of the, my, I was not a co-sponsor of this bill; however, I did have some influence in the planting of the lilac bushes part of the bill. Because I have a friend Guy Genta who is a member of the lilac commission who indicated to me, because of the budget cutbacks in the state, that his operation is basically down to nothing in terms of planting lilac bushes and part of the provision of this bill was to plant lilac bushes in the place so that it would be a shrub more so than an actual bill. So my question is, isn't that a part of this bill as well — still — or has the committee taken that out?

SENATOR HEATH: Yes it is. I might add in reference to shrubbery in general that the argument has also been made that it's a terrible sin to cut down a tree. If anybody wants to go up north of Concord on I-93 and look at those wide intersections where there was forest, there has been in the last six months a wholesale destruction of trees on the median and they just wiped out a forest up there. There doesn't seem to be any concern and those didn't block anything. They are well away from the highway and they're in a median that is quite wide and there seems to be disregard, I guess. They have enough money so they can spend it on taking down something that's harming nothing and in fact blocking no ones view.

SENATOR BASS: Senator Heath, is the basic issue here allowing the owner of a sign to clip vegetation in the state right-of-way or on private land?

SENATOR HEATH: In the state right-of-way they've logged, the state has licensed.

SENATOR BASS: But the issue here, a private, an owner of a sign can always clip in front of his or her sign on their own property or on the property that is not within the state right-of-way, but the issue here, this is not a trick question. I am trying to figure out this bill. The reason for the law is to allow them to trim bushes in the state right-of-way, on the state right-of-way. Is that right or not?

SENATOR HEATH: That is right. With the caveat that that is a licensed sign and the state derives an income from.



SENATOR BASS: O.K. Thank you.

SENATOR MCLANE: I rise in strong opposition to this bill. It is a bill we have seen before and all that has been done is to pretty it up with a few lilacs thinking that that is going to salve the conscience of those people who are defacing our highways. The bill would cost us, according to the federal highway people, all of our federal highway funds, if we cut within the right-of-way. We saw this bill last year in the legislature. A lilac bush is about that high and it cost about 30 bucks. It loses all its leaves in the winter and would no more cover a billboard. Because a billboard is by definition at least six feet off the ground and that's what they mean. They want to be able to cut the trees on the highway in front of their billboards. I would say that the federal law is important for two reasons. One for safety reasons, when people are reading signs they aren't looking at the road and secondly, both our neighboring states, Maine and Vermont have outlawed billboards. Our Governor, in his initial speech to this legislature, called for doubling of the license and for a ban on new billboards. But in the back door comes this one prettied up with some lilacs. But it's the same issue and the issue to me is do you care enough about the state of New Hampshire, and the vegetation that is along our highways, to allow a private person to cut down the trees and when you're saying 60 miles an hour and five seconds it isn't just a little window. It is a large section of highway and put a few dinky little lilacs in, that will in no way cover any part of that sign.

SENATOR HEATH: Senator McLane, have you placed any little trashy signs along the highway in the last number of years?

SENATOR MCLANE: I can think of none that I have placed along the highways?

SENATOR HEATH: Senator McLane, have I ever seen one of your advertisements along the highway?

SENATOR MCLANE: I have never put a sign of mine on a public highway.

SENATOR HEATH: Senator McLane, have you put a sign of yours in view of somebody driving along the highway for the purposes of advertising your business?

SENATOR MCLANE: No.

SENATOR HEATH: Your political business, you have never placed a political sign?

SENATOR MCLANE: No, we are talking about federal highways and turnpikes and I have never put a sign of mine on a federal highway or turnpike.

SENATOR HEATH: Senator McLane, do you use political signs?

SENATOR MCLANE: Of course.

SENATOR HEATH: Thank you.

SENATOR OLESON: I rise in support of the passage of SB 127. I believe I come from the most scenic area in the state of New Hampshire, and my house, which is a two story house and I can look out my bedroom and I can see lilac bushes because I planted them, some well back in 1950. But going back about being the most scenic part of the state. In my belief signs are an essential part of our economy. We have a saying, we only have one road up home, sometimes we find ourselves going in the wrong direction, but at least we are on the right road. And we depend on signs for the economy to an extent. Many people up home, they seem to rely on home crafts, small art galleries, and whatever. They depend on signs to direct the tourist that come up, which we spend many millions of dollars to bring in the state, to hook them into stop and leave a few of their dollars behind. This bill is surrounded by rules and regulations set up by the Transportation Department and that's the way it should be. Even if there is a sign that is obstructed by trees, and I have read that poem trees too, back when I was in grammar school, they can move it to another acceptable location. It's built into the bill. Of course being an old lumberjack, I do look at trees out of different eyes than other people maybe. When I look at trees I look at some and I say seven of them will make a cord of wood and other people will look at them and saw how beautiful they are and other people say they're good homes for squirrels. But it doesn't say exactly lilacs, it says it could be barberry or it could be bridal wreath and if the law didn't prohibit it we could even plant lady slippers in front of them, I imagine. In anyway I do believe that signs are an accommodation to our tourists. They tell them where the hotels and motels happen to be or you have signs saying this is the Basin, coming down Franconia Notch and if you stop up here a little ways you can see a good view of the Old Man In The Mountain. It does form a service, Mr. President. I think it is surrounded by rules and regulations enough and I think everybody's had a chance to read the bill. We had a lengthy hearing on it and I urge my fellow Senators to pass the bill as written. Thank you very much.

SENATOR SHAHEEN: Senator Heath, did I hear Senator McLane or did you hear any testimony at the hearing saying that if we have billboards along our interstate highways that we would lose federal dollars?

SENATOR HEATH: I think I heard Senator McLane talk about that. I think that she is incorrect in this fact.



SENATOR SHAHEEN: Do we know that for sure?

SENATOR HEATH: Well let me clarify that. This bill does nothing to effect that whatsoever. That is my understanding. I believe that that is correct.

SENATOR MCLANE: Senator Oleson, the bill says again and again that this is federal highways and turnpike adjacent areas. I assume that that does not mean the roads up in your country that are not federal highways.

SENATOR OLESON: Is this a question, Senator?

SENATOR MCLANE: Yes.

SENATOR OLESON: To a certain extent, and I imagine when 93 and 89 developed, and I think the feds picked up some 95 percent and Lady Johnson said you would get another 50 cents eliminated to a certain extent. On my highway in my area, you're right, the federal highway hasn't touched my area. But I do believe that this is only construction of a federal highway, that this was the agreement when it was put in. So here again we go back to the Commission of Transportation and if there was disagreement with the bill then, no doubt it wouldn't be allowed on the turnpike. I imagine the Department of Transportation would take advantage of the facts and rule for it.

SENATOR MCLANE: If your area does not have federal highways or turnpike adjacent areas then you would agree with me that this bill applies only to federal highways and therefore is subject to restrictions because of federal funds?

SENATOR OLESON: I will repeat again, Senator McLane, that if this does affect any federal funding, the Highway Department or Transportation Department certainly would take it under consideration.

SENATOR COLANTUONO: Senator Heath, I take it that the problem this bill is designed to address is the problem where a billboard is set up in 1980 and has a clear view from the highway. And over ten years the vegetation had grown up so that you can't see the billboard anymore and in other words, is it true that we're not talking about trees that are already there before the billboard was put up?

SENATOR HEATH: No, absolutely not.

SENATOR COLANTUONO: And is it also true that when vegetation or saplings or whatever grow up into such, trees of such that they block a billboard aren't they also a danger to, a hazardous condition for traffic that might go off the highway?



SENATOR HEATH: They could in instances, they certainly could.

SENATOR COLANTUONO: And isn't it the case that every year the Highway Department goes out and trims some of these trees for safety factors?

SENATOR HEATH: That is certainly the case, they trim them beyond the safety factor. They make work where there is no work possible. What's more, in my district it has been known that they would take that wood home and in fact, in one case I believe, it has been sold as sort of a side business by employees of the state of New Hampshire. They dispose of it in their yard and then have cordwood sales.

SENATOR COLANTUONO: So that under this bill Senator, we're not only getting the private enterprise to do this and having them pay us for the privilege and thereby saving state funds and gaining state revenues, but we are also replacing the useless wood and vegetation that is being cut down with beautiful wildflowers and lilacs, is that the case?

SENATOR HEATH: Well yes, that's the case. I would not suggest to you that the purpose of the legislation is to beautify the landscape with this litigate. But at the same time it vitiates any damage that people who don't think there are enough beautiful scenes up there. It vitiates some of that and at the same time, as it restores the Constitutional side. When we have a painting we grandfather things in which really only vitiates the painting in this case and then we let mother nature do what the state doesn't have the gall to do because it's against the Constitution and it's acted as if it doesn't exist.

SENATOR CURRIER: I rise in support of the report of the committee and I take exception to Senator McLane's comments belittling our state flower, the lilac, and calling it a little, dinky plant. I mean, lilacs grow to the height of 121" to 14' in some cases, if it's let to grow wild and it actually does in fact mitigate because it becomes a shrub. That area that would be actually cut on the highway. And I have to emphasize that this is a supervised planting and cutting. It's not indiscriminate raking of the soil along the highways. There has been in President Bush's message recently this week about his capital improvements regarding transportation and so fourth and there has been some mention about outside advertising and so forth regarding that proposal and if in fact it does curtail the use of billboards along the highways as did the provisional under the Johnson administration, then we will have to deal with that when it comes. But I don't think that we should not be taking action on this bill because we are waiting for something to happen from Washington.

SENATOR HUMPHREY: Mr. President, Senator Heath keeps mentioning, using the word taking, and that always gets my attention. But I don't agree that it's a taking in this case. As I understand it, the signs that are the focus of attention are those that are on lands of abutting interstate highways. When the taxpayers pay to buy a swat of land through the countryside to provide expeditious and scenic highway transportation, they don't undertake to spend that money to create an opportunity for the abutters to have a sign. I mean, if the abutters want to put up a sign that is fine, but as I see it, preserving the scenic nature of such highways does not constitute under those circumstances where the benefit of putting up a sign is a windfall to abutters. Preserving the scenic nature which is a distinct part of the interstate highway system does not constitute a taking in that circumstance, as I see it.

SENATOR HEATH: Senator Humphrey, if you're appalled by signs, and it seems to me that you are or you wouldn't oppose businesses using them, would you agree with me that anybody who opposes this visible signage in this room should get out of the sign business themselves?

SENATOR HUMPHREY: That's no. That's a non sequitur: whatever a non sequitur is.

SENATOR HEATH: Perhaps I can clarify, Senator Humphrey. We are all in the sign business. What we are talking about now is somebody else's signs and I am just suggesting to you that maybe if we are really, sincerely opposed to seeing signs from the highways that those of us that don't believe that signs are a viable way of communicating with the general public should therefore, ourselves, get out of the sign business at the same time we are asking the individuals, the farmers and so on who have the opportunity to lease a portion of their field for a little income. When you're asking them to get out of it, then we should voluntarily get out of it. I guess I'm asking you if you'd agree that that is a good idea?

SENATOR HUMPHREY: I don't place my signs on land adjoining interstate highways. Nor do I leave them up year after year: I'd like to, but we can't do it.

SENATOR HEATH: Senator, do you then feel that because you are not on right-of-way and they are on private land like these other signs, that the difference between your signs and say the one for Polar Caves that yours is more attractive than those?

SENATOR HUMPHREY: Well that of course is a subjective matter. There is a paradox here, of course. On one hand people come to New Hampshire because it's scenic, on the other hand everytime we en-



courage the throwing up of these very large, I'm not talking about little political signs, I'm talking about these huge expansive billboards. Every time we do something, as this bill would, to encourage the placing of more of these signs abutting lands to interstate highways, the less scenic it becomes, it's a paradox isn't it?

SENATOR HEATH: It's a pair of something.

SENATOR RUSSMAN: I rise in opposition to the committee report and in support of Senator McLane. I think that the argument that it's a taking constitutes any type of Constitutional taking, is rubbish really, in essence, that if it were a taking the sign people would certainly be filing lawsuits to say that it was a taking and indeed be compensated. At the same time I think you do run in jeopardy of jeopardizing federal highway funds and obviously, if this is a tourist state we would like to have those federal funds to be assured to get the people here. Our license plates used to say Scenic New Hampshire I believe, at one time many years ago, and so it's hard to have it both ways. If you want to have it scenic and you want to encourage people to come here because it's a beautiful and lovely place to come, the answer is not to throw up large billboards or to make them more intrusive on their way of travel up through the state. But in essence we ought to encourage federal highway dollars to come here in order to get more tourists to come here and spend their money. So I think if you're really trying to help business then you ought to vote to kill this bill, and certainly that is going to help our tourist industry, and I think that will go a long way towards helping the business industry itself.

SENATOR HEATH: Senator Russman, you brought up an interesting point. Our license plates used to say scenic New Hampshire. A small sign, but nevertheless the state sign at the time. Isn't that sign most of the time on a state right-of-way advertising the state of New Hampshire?

SENATOR RUSSMAN: If this is your one question, I suppose the answer is yes, it is.

Senator Blaisdell has moved the question.

Adopted.

Senator McLane moved for a Division Vote.

Yeas: 14

Nays: 8

Adopted.

Referred to Finance (Rule #24).

**SB 154-FN**, an act relative to the jurisdiction of state police employees. Transportation committee. Ought To Pass. Senator Currier for the committee.

**SENATOR CURRIER:** The last session of the legislature, the Department of Safety came over to the Transportation committee with an amendment that caused a major controversy which changing the jurisdiction of state Police and over the period of time the Attorney General's Office got together with the committee, including the state Police, New Hampshire Police Association, New Hampshire Chiefs of Police Association and others, to go over the situation regarding the jurisdiction of state police dealing with DWI cases and drug related cases. This bill is a result of a study committee that worked diligently throughout the summer to come to grips with the problems that are faced with the state Police and with the local authorities and the provisions of the amendment through this current statute dealing with that authority it has been dealt with and has been reflected in this bill. The Chiefs of Police Association appeared before the committee in favor of the bill. There was only one department in the state that appeared in opposition to the bill and the committee report is ought to pass.

Adopted.

Ordered To Third Reading.

The following Senators are in opposition to SB 154: Cohen, Hollingworth, J. King, St. Jean.

**SB 121-FN**, an act relative to operating a motor vehicle under the influence of drugs. Transportation committee. Inexpedient To Legislate. Senator Currier for the committee.

**SENATOR CURRIER:** This bill is basically the same content as SB 210, which is now in the Senate Judiciary committee and there is no need for this bill because it's covered under subject matter in a bill that will be heard by the Judiciary committee and it has the basic same provisions and so the committee is reporting the bill as inexpedient to legislate.

Committee Report Adopted.

**SB 18-FN-A**, an act relative to the conservation corps program and making an appropriation therefor. Wildlife and Recreation committee. Ought To Pass With Amendment. Senator McLane for the committee.

**SENATOR MCLANE:** This is a excellent bill. We passed, in 1988, a bill creating the New Hampshire conservation corps and since that time 140 young people who were at risk of dropping out of school and becoming financial and social burdens have participated in the pro-



gram. Senator Bond and I went up to Franconia and saw the camp where they live for the summer. They study math and reading and they have given to the state of New Hampshire over 33,000 hours of labor. The reason for the appropriation is that there is a three to one federal match, but in order to get the funds to get that match, which would provide for 100 additional young people to work over the summer of 1991 and the summer of 1992, we need \$100,000. Since 1987 these kids have built over 30 miles of trail and 16 bridges on the Heritage Trail. This would be a capital infusion with the federal matching funds of \$300,000 into the state. It would create work opportunities and enhance employment for 100 young people and help to conserve the state's natural beauty and resources. I think the most telling testimony at the hearing was the testimony from a West High, in Manchester, Guidance Counselor who literally told of two young students who had spent the summer in the woods working on a trail and came back completely different people. He took the time to come to the hearing and felt so sincerely that of all the programs that he has ever seen that the state of New Hampshire ran that this is the one that he could see the most difference and for that reason I would ask that this bill be sent down to Finance.

#### **Amendment to SB 18-FN-A**

Amend the bill by replacing section 1 with the following:

1 Appropriation. The sum of \$100,000 is hereby appropriated to the department of resources and economic development, division of parks and recreation, for the biennium ending June 30, 1993, for the purpose of funding the conservation corps established pursuant to RSA 216-A:7. The division of parks and recreation is also hereby authorized to receive and expend donations, contributions, and monetary awards, to be used for the purpose of matching federal funds. This appropriation is pursuant to the National and Community Service Act of 1990, Title I, Subtitle C, which makes funds available to "expand a full-time or summer youth service/conservation corps program" on a 75 percent federal to 25 percent state ratio. If federal funds for this purpose are not available in the amount of \$300,000, the state appropriation shall be reduced in proportion to the amount the federal funds have been decreased. This appropriation shall be in addition to any other sums appropriated to the department of resources and economic development for the biennium. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment Adopted.

Referred To Finance (Rule #24).

**SB 130**, an act relative to certain real property received from drug forfeitures to the state. Wildlife and Recreation committee. Inexpedient To Legislate. Senator Heath for the committee.

**SENATOR HEATH:** This piece of legislation was a victim of our process here regardless of its merits and I think it had merits because it was my bill. It was a victim and this is what happened. On the day of the hearing there was one member of the committee present and that was me. There was one sponsor present and that was me. I didn't see, in good conscience, how I could do anything but ask myself to find this inexpedient and I think that speaks to the problem that we have had in scheduling. Some of it may be unavoidable, but I think that we have to look at a process that is better than the process that we have now in terms of being able to allow time for committee members to both testify to their bills and attend to their committee duties. I did extract, well I shouldn't say extract, it was an offer from the Attorney General and I accepted it and it is since then been given to me in writing that he will make an attempt to take prime access properties on bodies of water that are taken in the drug forfeiture act, available to the Department of Fish and Game or the state of New Hampshire for purchase of access first, before it goes onto the auction block to raise revenues for drug intervention, not drug intervention, drug law enforcement efforts. So something has come out of it, but it was a lesson to me as to just how bad the process can get sometimes and I urge all of you to think of resolutions for those problems because I'm sure that this is not the first or the last time that the process has been the deciding factor to a piece of legislation rather than the merits of the legislation. Thank you.

**SENATOR COLANTUONO:** Senator, am I understanding that the committee reported this out because no one was at the hearing, reported it out inexpedient simply because no one was at the hearing?

**SENATOR HEATH:** I was the only committee member at the hearing and I was the sponsor and I was the chair. There were opponents there and I just felt that if we did anything but inexpedient to legislate, no one could claim that it was a fair process. I did not want to see a headline that Heath introduces his own bill, Heath Chairs the bill, Heath passes the bill. I didn't see how I could come out a winner that way and how anyone could have faith in the process and I know that I could be objective, but I didn't think everybody else would believe that I could.

**SENATOR COLANTUONO:** Then you believe that there is merit to this bill still?

**SENATOR HEATH:** I do. Yes.



SENATOR COLANTUONO: I move to Table the bill.

SENATOR HEATH: Parliamentary inquiry. If I felt that the agreement with the Attorney General might possibly be violated by continuing to pursue this legislation at this time, would I vote against tabling?

PRESIDENT DUPONT: Senator, the motion before you is tabling and if a member desires to see this bill on the table to allow for whatever is going to happen after, then the affirmative vote would allow it to be tabled.

SENATOR COLANTUONO: I withdraw my motion.

Senator Russman moved to recommit SB 130, to the Wildlife and Recreation committee.

Adopted.

SB 130, IS RECOMMITTED to The WILDLIFE & RECREATION COMMITTEE.

SENATOR HEATH (Rule #44). Fellow colleagues, I never thought that it would be that difficult for me to self destroy a bill that I think has some merit to it, in fact, I just never thought that this experience would take place and I thank you all.

SB 134-FN, an act relative to a public recreation revolving fund.

Wildlife and Recreation committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: SB 134-FN, is purely permissive legislation. It allows a municipality to establish a public recreation revolving fund. The fund would take if it was established, it would take fees from programs, put it into a revolving fund that would be used to run and fund other programs assuming that they can afford to hire a licensed athletic trainer which would probably be a good thing for a town to do.

#### Amendment to SB 134-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Public Recreation Revolving Fund. Amend RSA 35-B:2 to read as follows:

35-B:2 Tax and Appropriations. Any town, city, county, village district or school district may raise annually revenues and appropriate funds for the purpose described in RSA 35-B:1 and also may raise such sums when the land upon which such activities are con-

ducted belongs to or is leased by the state. The money necessary to pay for lands or other recreation purposes described in RSA 35-B:1 may be raised, and appropriated by the board or body having control over the finances of a political subdivision by **the following methods:**

I. General taxation, as other taxes are raised and levied or by the issuance of temporary loan bonds or by the issuance of permanent bonds to the extent, and with the authority authorized by existing law.

II. By fees and charges for recreation and park services. The local legislative body may, by vote, establish a recreation revolving fund. If such a fund is established, all fees and charges for recreation and park services shall be deposited into such fund, shall be allowed to accumulate from year to year, and shall not be considered part of the political subdivision's general surplus. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in such fund, and shall pay out such moneys only upon order of the recreation or park commission, or other board or body designated by the local legislative body at the time the fund is created. The funds may be spent only for the purposes described in RSA 35-B:1, provided that:

(a) No funds shall be expended or liabilities incurred in excess of the fund's cash balance, or in such a way as to require the expenditure of other political subdivision funds which have not been appropriated.

(b) No moneys shall be used to pay the wages of a political subdivision employee unless that person is engaged as a program instructor or activity supervisor on a contractual basis.

III. This section shall not be construed to limit the establishment, for recreation purposes, of capital reserve funds pursuant to RSA 35:1, trust funds pursuant to RSA 31:19-a, or special revenue funds pursuant to RSA 31:95-c.

2 Town Treasurer Duties; References Added. Amend RSA 41:29 to read as follows:

41:29 Duties. The town treasurer shall have custody of all moneys belonging to the town, and shall pay out the same only upon orders of the selectmen, or, in the case of a conservation fund established pursuant to RSA 36-A:5, upon the order of the conservation commission **or, in the case of a recreation revolving fund established pursuant to RSA 35-B:2, upon the order of the recreation or park commission, or other board or body designated by the town to expend such a fund.** He shall deposit all such moneys in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to the state treasurer as collateral security for such deposits United States govern-



ment obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. Said out-of-state banks shall make a monthly report of such deposits to the state treasurer. The amount of collected funds on deposit in any one bank shall not for more than 20 days exceed the sum of its paid-up capital and surplus. The town treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from town treasury, and of all notes given by the town, with the particulars thereof. At the close of each fiscal year, he shall make a report to the town, giving a particular account of all his financial transactions during the year. He shall furnish to the selectmen statements from his books, and submit his books and vouchers to them and to the town auditors for examination, whenever so requested. Whenever the town treasurer has in his custody an excess of funds which are not immediately needed for the purpose of expenditure, he shall, with the approval of the selectmen, invest the same in obligations of the United States government, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the state of Massachusetts.

3 Effective Date. This act shall take effect July 1, 1991.

Amendment Adopted.

Ordered To Third Reading.

### SUSPENSION OF THE RULES

Senator W. King moved that the Rules of the Senate be suspended to dispense with the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

SENATOR HUMPHREY: Parliamentary inquiry. Is it in order to address a question to the Senator about the nature of the bill?

PRESIDENT DUPONT: Senator, why don't we have the Clerk read the title and they might clarify your concern Senator. We will distribute the bill immediately after the motion is adopted.

SENATOR HUMPHREY: Parliamentary inquiry. What is the motion, then, before us?

PRESIDENT DUPONT: The motion is to suspend the rules and to allow the introduction of a bill without holding a committee hearing, without notification and to put it on second reading at the present time.

**HCR 5**, honoring the village of Hill on its 50th anniversary.

Adopted.

SENATOR W. KING: Because we are going on break and the 50th Anniversary of the town of Hill will occur during that break, we need to move on this as expeditiously as possible so that we can present that resolution to the town of Hill within the next week honoring them on their 50th Anniversary. Senator Heath, what was it, your grandfather was born there?

SENATOR HEATH: My great grandfather and many generations before.

SENATOR W. KING: Ah ha. The Heath family has roots very deep in Hill and therefor I would urge you to suspend the rules. Thank you.

Suspension of the Rules is Adopted.

SENATOR W. KING: I will make this very brief. Some of you may know that the town of Hill was originally located in the area where there is now a flood control dam and 50 years ago it was relocated to a different area and this is the 50th anniversary of that relocation where the folks from the town of Hill for the good of all those below them agreed to move their town and we would like to so honor them.

Ordered to Third Reading.

### TAKEN OFF THE TABLE

Senator Currier moved to take SB 112-FN, Off The Table.

**SB 112-FN**, an act relative to license plates for firefighters. Ought To Pass.

Motion Adopted.

Recess.

Out of recess.

SENATOR CURRIER: The reason that this bill was placed on the table was on the recommendation of Senator Colantuono to tie the fee to the vanity plate fee. The amendment before you, #1569L basically does that. It changes it so that the plates shall be issued upon payment of a special fee which is commensurate with a special fee assessed to vanity number plates and basically, that is all the floor amendment does. It takes into consideration Senator Colantuono's suggestion on, I believe it was last Thursday or Tuesday or whatever day it was placed on the table. We just had a special fee of \$25, but everybody felt that it should probably be tied into the vanity plate fee where this is in fact, a vanity plate so that the fee goes up and down. I should say up with the vanity plate fee.



SENATOR BASS: Senator Currier, the issuance of these license plates will not give the vehicle or the driver any special privileges either in exceeding speed limits or parking, or no parking zones or any other privileges, it's simply a vanity plate in which a multi-cross is placed upon a license plate and no other privileges associated with it?

SENATOR CURRIER: Thank you, Senator Bass. There is no additional benefit implied in anyway in this bill. The bill is to show recognition to a volunteer in professional firefighters across the state if they so elect to purchase this firefighter plate. There are something like 7,500 volunteers in professional firefighters across the state that I believe deserve this recognition as we recognize POWS, Purple Heart, National Guard and other so called plates. The only difference is that this plate, they will pay for. The other plates we give them for a very normal fee, this is in fact a vanity plate.

Senator Currier offered a Floor Amendment.

#### **Floor Amendment to SB 112-FN**

Amend RSA 261:87-b, I as inserted by section 1 of the bill by replacing it with the following:

I. The director shall design and issue, with the approval of the commissioner, special number plates to be used on motor vehicles owned by volunteer and full-time firefighters. The plates shall display the Maltese cross. The director shall make one set of plates available to any person who meets the qualifications of paragraph II, and who furnishes the director with proof of those qualifications on an application form provided by the department. The plates shall be issued upon the payment of a special fee which is commensurate with the special fee assessed to vanity number plates as specified in RSA 261:89, which shall be deposited in the state treasury to the account of the department and shall not lapse, upon the presentation to the director by the firefighter of an application which indicates that he is an active member of and in good standing with his fire department. The application shall be signed by the firefighter's fire chief. The application fee shall be in addition to the regular motor vehicle registration fee, but no other number plate manufacturing fee shall be charged.

#### **AMENDED ANALYSIS**

This bill authorizes the director of the division of motor vehicles of the department of safety to issue special license plates to firefighters. The fee for the plates shall be commensurate with the special fee assessed to vanity number plates and shall be credited to the

department. The bill also lists the qualifications which must be met in order to be considered a "firefighter," which qualifications shall be put forth in an application form to be provided by the department.

The bill grants rulemaking authority to the department to develop the application form to be used by firefighters to obtain the special plates.

Floor Amendment Adopted.

Ordered To Third Reading.

### ANNOUNCEMENTS

SENATOR MCLANE (Rule #44): I have two matters that I did want to bring before the Senate. One, is an apology to those lilac lovers and sellers. I don't think they are dinky in most cases, it's just in front of billboards. Secondly, I would urge you not only to look at SB 66, before it comes up again which is the durable power of attorney for health care, but I would urge you to ask either your doctor or a nursing home that you know about it or a nurse. The Nursing Association has been very strong for this bill. Particularly a nurse that works in the intensive care ward or a legal aid person or a member of AARP that has been very strong, or someone from the Living Will Society, or a lawyer, or your hospital, or your church, be it Catholic or Christian Science. Because there has been a lot of work that went into that bill and I do think that there are people out there who could answer any of your questions.

SENATOR DELAHUNTY (Rule #44): Thank you Mr. President, and fellow colleagues. Just the other day Senate Security came up to the Senate President's Office and had a report. A very distasteful report on one our fellow Senators. The fact that the Senator was very disrespectful to our statutes and our laws. He was running around with expired Senate plates from last year. Right after that the Department of Safety called and was very concerned that this good Senator would be forced to slow down at the Hooksett toll booths while he dropped in his three tokens. It is therefor with great pleasure, that I present Senator St. Jean with the plates to the company of holding this distinguished office and he's getting these because for the last two months for good behavior he has more than earned the right to display them. With these plates Senator, comes the responsibility that your vote comes forth whenever we need it and one that I'm sure that you are very capable of handling. So Senator, with an exchange for \$10 in compensation it's my pleasure in behalf of the Commissioner.



**RESOLUTION**

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until 1:00 p.m. Tuesday, March 5, 1991.

Adopted.

Senator Currier moved that we adjourn until Tuesday, March 5, 1991 at 1:00 p.m.

Adopted.

**LATE SESSION****RESOLUTION****Third Reading and Final Passage**

**SB 21**, an act establishing a commission to study and recommend the elimination of state-mandated programs.

**SB 61-FN**, an act relative to speedy payments for the care of children in foster homes.

**SB 86-FN**, an act to create low salt districts within the state highway system.

**SB 97**, an act relative to administrative rules and state mandates.

**SB 112-FN**, an act relative to license plates for firefighters.

**SB 134-FN**, an act relative to a public recreation revolving fund.

**SB 140-FN**, establishing a committee to study rate setting for certain services, placements, and programs.

**SB 154-FN**, an act relative to the jurisdiction of state police employees.

Senator Currier moved to adjourn.

*March 5, 1991*

The Senate met at 1:00 p.m. A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, we thank you for a restful and enjoyable recess, to prepare ourselves for the battle of the you know what, the budget. Let us do what we can financially, with what we have. God Bless.*

*Amen.*

Senator St. Jean led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### INTRODUCTION OF SENATE STAFF

Donna Morin - Executive Secretary to the President.

Wilma Gouger - Executive Secretary to the Majority Leaders.

Debbie McLeod - Executive Secretary - Finance and Senators Blaisdell and Hough.

Rachel Duvernay - Executive Secretary - Minority Leaders.

Pat Waldvogel - Secretary - Minority Office.

El Glaser - Senate Recorder.

Tammy Wright - Calendar Clerk.

Brenda Mento - Journal Clerk.

Doreen Sumner - Receptionist.

Carol Pletcher - Supervisor of Committee secretaries and committee secretary to Insurance and Ways and Means.

Pat Borghoff - Committee secretary to Executive Departments and Internal Affairs.

Jeanne Geiman - Committee secretary to Banks and Judiciary.

Jennifer Jenkins - Committee secretary to Education and Transportation.

Christine Lamothe - Committee secretary to Environment and Public Affairs.

Karen Stevens - Committee secretary to Public Affairs.

Rosalie Brooks-Patch - Committee secretary to Interstate Cooperation and Public Institutions/Health & Human Services.

Angie Duffy - Committee secretary to Economic Development and Wildlife and Recreation.

June Goulson - Director of Senate Research.

Susan Faretra - Senate Research Assistant.

Michael Kitch - Senate Research with Economic Development.

David Harrington - Senate Information Officer.



## HOUSE MESSAGE

The House of Representatives concurs with the passage of the following entitled bill:

**HB 51-FN**, relative to the normal contribution rate for retirement system members and establishing a committee to study retirement system benefits and making an appropriation therefor.

## INTRODUCTION OF HOUSE BILLS

### RESOLUTION

Senator Delahunty moved that **RESOLVED**, in accordance with the list in the possession of the Clerk, House Bills #50 through #593 shall be by this resolution read a first and second time by the therein listed titles, laid on the table for printing and referred to the therein designated committees.

Adopted.

**HB 50-FN-A**: relative to state revenue and expenditures. Finance committee.

**HB 100**: clarifying when a school bus driver must pull over to let other drivers pass. Transportation committee.

**HB 103**: relative to the time period for perfection of a purchase money security interest under the uniform commercial code. Banks committee.

**HB 104-FN**: relative to a public water rights report and advisory committee. Environment committee.

**HB 106-FN**: establishing a committee to study the feasibility of an enhanced statewide uniform emergency 911 telephone system. Executive Departments.

**HB 113**: relative to weighted voting in school administrative unit affairs. Education committee.

**HB 116**: relative to a definition of active military service in relation to representatives and senators. Internal Affairs.

**HB 117-FN**: relative to housekeeping changes in the weights and measures laws. Executive Departments.

**HB 120**: to standardize the use of tax exemptions and tax credits for property tax purposes. Executive Departments.

**HB 121-FN**: relative to limiting the mode of taking deer in Rollinsford. Wildlife & Recreation committee.

HB 125: relative to drink rails. Ways & Means committee.

HB 129-FN: relative to monitoring the reassessment of taxable property by the department of revenue administration. Executive Departments.

HB 130-FN: relative to mass transportation in certain cities. Transportation committee.

HB 131-FN: relative to liability for acts which create situations requiring unnecessary emergency responses. Judiciary committee.

HB 132-FN: reclassifying portions of certain highways in the town of Sandwich. Transportation committee.

HB 137-FN: relative to railroad rights-of-way. Transportation committee.

HB 142-FN: relative to school district budgets. Education committee.

HB 147: relative to the information required on declarations of candidacy, primary petitions, and affidavits for qualifications of candidates. Public Affairs committee.

HB 154: relative to electing Belknap county commissioners and relative to printing county convention proceedings in Belknap county. Public Affairs committee.

HB 166: relative to voting in cooperative school districts. Public Affairs committee.

HB 167-FN: relative to airman certificates and fees. Transportation committee.

HB 168: relative to highway classifications. Transportation committee.

HB 171-FN: relative to maintaining the "Old Man of the Mountain." Environment committee.

HB 174: relative to the appointment of a deputy town clerk by the elected town clerk. Executive Departments committee.

HB 175-FN: relative to the hunting of pheasants. Wildlife & Recreation committee.

HB 179: relative to authorization of treatment for communicable diseases. Public Institutions, Health & Human Services committee.

HB 185: relative to certain security transactions exempted from registration. Banks committee.



HB 186: relative to isolated sales of securities. Banks committee.

HB 187: including agents of investment advisors in the definition of "agent" under the securities laws. Banks committee.

HB 188: clarifying definitions of "investment mental contract" and "investment gem contract" for purposes of securities regulation. Banks committee.

HB 202-FN: to extend the time period within which a corporation may reinstate its charter, relative to revival of charters of voluntary corporations, and reviving the charter of the Bristol Federated Church. Judiciary committee.

HB 212-FN: relative to black bear hunting licenses. Wildlife & Recreation committee.

HB 213-FN: relative to rates set for medicaid and the administrative procedure act. Public Institutions, Health & Human Services committee.

HB 221-FN: relative to respite care for Alzheimer's disease. Public Institutions, Health & Human Services committee.

HB 243: relative to the number of signatures required to place a petitioned article on the warrant. Public Affairs committee.

HB 244-FN: establishing a committee to examine whether the state commission for human rights should be authorized to levy administrative fines and award compensatory and punitive damages. Executive Departments committee.

HB 248-FN: relative to developments having regional impact. Executive Departments committee.

HB 255-FN: establishing the New Hampshire foundation for mental health and the mental health foundation fund. Public Institutions, Health & Human Services committee.

HB 290-FN: relative to the sale of hunting licenses. Wildlife & Recreation committee.

HB 325-FN: relative to reciprocity of dog training. Wildlife & Recreation committee.

HB 333: relative to notification of insurance cancellation. Insurance committee.

HB 352-FN: relative to the oil discharge and disposal cleanup fund. Environment committee.

HB 361: repealing certain obsolete education laws. Education committee.

HB 428-FN: relative to the enforcement and administration of state taxes by the department of revenue administration. Ways & Means committee.

HB 493-FN: relative to the design review fees for sewerage and wastewater projects. Environment committee

HB 593-FN-A: relative to the rate of the business profits tax. Ways & Means committee.

HJR 2: providing that the Kona Wildlife Management Area shall be forever managed by the state of New Hampshire in a manner so as to protect its habitats. Wildlife & Recreation committee.

HCR 3: supporting the building of a fire academy. Executive Departments committee.

### NOTICE OF RECONSIDERATION

Senator W. King has served notice of reconsideration of SB 225-FN, relative to the higher educational building corporation and loan eligibility.

### REPORT OF COMMITTEE ON ENROLLED BILLS

The committee on Enrolled Bills has examined and found correctly enrolled the following entitled House Bill:

**HB 51**, an act relative to the normal contribution rate for retirement system members and establishing a committee to study retirement system benefits and making an appropriation therefor.

### COMMITTEE REPORTS

**SB 33-FN**, relative to establishing a nonlapsing account for the New Hampshire technical institute and vocational technical colleges and creating the position of director of financial management. Education committee. Ought To Pass With Amendment. Senator Disnard for the committee.

**SENATOR DISNARD:** This is a unanimous decision and in essence of time I won't read the act that was just read from the Clerk. But you would be happy to know that the Charlie Connors Division, Legislative Budget and a subcommittee established last year to reveal the technical colleges indicated that there should be a central system of budgeting that will be in effect, and you will be happy to know that they expect a \$200,000 savings by doing this and you will also be happy to know a question that was presented by Senator Hough to the commissioner indicated that there would be a reduction force. Senator Hough asked point-blank, does this mean that



there will be a reduction of force and the answer is yes. So once we have an agency that is reviewing recommendations, establishing a change in centralization that will save, and I am sorry to say mean, a loss of jobs. We ask your support.

### **Amendment to SB 33-FN**

Amend the introductory paragraph of RSA 188-F:5, II-a as inserted by section 1 of the bill by replacing it with the following:

II-a. The commissioner shall nominate for appointment by the board of governors, an unclassified director of financial management. The director shall serve at the pleasure of the board of governors. The director shall be qualified to hold that position by reason of education and experience. The director shall be responsible for the following functions:

### **AMENDED ANALYSIS**

This bill establishes a nonlapsing account for the New Hampshire technical institute and technical colleges. In the event that the legislative revenues are not met for a fiscal year, then a deficit may be compensated for by adjusting line item appropriations or utilizing funds in the nonlapsing account.

The bill also creates the position of director of financial management, who shall be appointed by the commissioner and serve at the pleasure of the board of governors.

Amendment Adopted.

Referred to Finance (Rule #24).

**SB 156-FN-A**, establishing a committee to study the SAU structure within the state of New Hampshire and making an appropriation therefor. Education committee. Ought To Pass With Amendment. Senator Disnard for the committee.

SENATOR DISNARD: I assume you all recognize that the school administrative unit SAU are made up of school districts. The largest city such as Concord has a district in the SAU. You may be amazed and I am glad that you are sitting down, the anticipated cost to operate all these SAU's, \$24,000,000 - \$30,000,000. Twenty-four has been established by legislative research, it's two years old so there is a possibility that 3 percent of the cost to operate school districts is in the SAU's. All this bill asks for is a study committee with \$25,000 for a third dis-interested party consultant to determine if there is a less costly way and at least efficient or a more efficient, way to manage our schools.

SENATOR HEATH: I'm rising in opposition to this and here is my problem. We did this kind of study, at least prior to the last time I

served on Education which is six years ago, we did it. We hired a consultant. The consultant took an earlier report that the same consultant had done. It was full of bombast and essentially a lot of empty rhetoric and nothing came out of it. The legislature didn't follow it up with any actions, there was no landmark suggestions in it. The education, what was it, the educational field services, division of the University of New Hampshire. It's connected with the University of New Hampshire, did that study and they quoted a prior study and they have an agenda. I agree that we need to study SAU's and try to get their costs under control. Their costs are outrageous. Their services to education, in actuality, are almost minimal and I don't disagree with you that we should do it. But I mean this is a loaded group that set the priorities and hired the consultant and we spent the money twice before and we haven't done anything. We still have the problem, I don't see that this approach as it is written here is going to do anything but throw another \$24,000 at some other group, or at a committee that will hire probably the same group who will go back in their files and tell us the same damn report again. So I would ask you to vote in opposition to this.

SENATOR DISNARD: Senator Heath, would you believe that I participated in that program two years ago and would you believe that that has been reviewed and would you believe that this bill is vastly different from the SAU in terms of reorganization that was suggested?

SENATOR HEATH: Senator, I guess I would have to ask you to clarify your question. If you would have said two years ago and the report that I remember was, I guess it was probably finished up around four years ago and that referred to, I mean essentially adopted the language of a prior report before that at some prior time that the legislature had done this thing. And I guess I don't see where the difference is. I don't see that we are not going down the same route throwing away more money. I don't disagree that we have a problem. To fully answer your question. I just don't see how this routes out the problem anymore than the prior to it did.

### **Amendment to SB 156-FN-A**

Amend the bill by replacing section 1 with the following:

1 Committee Established.

I. There is hereby established a committee to study the effectiveness of the school administrative unit (SAU) system in the state of New Hampshire. The committee shall be composed of the following members:

(a) The chairperson of the house education committee or designee.



(b) The chairperson of the senate education committee or designee.

(c) Two public members, appointed by the governor.

(d) A representative of the New Hampshire Municipal Association, appointed by such association.

(e) A representative of the New Hampshire School Boards Association, appointed by such association.

(f) The commissioner of the department of education, or designee.

Amendment Adopted.

Referred To Finance (Rule #24).

Senators Colantuono and Heath in opposition to SB 156.

**SB 204-FN**, an act waiving tuition for state troopers enrolled in any state school, college or university. Education committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: This bill allows state troopers to attend classes on an available basis. Essentially, seats that are not being taken and it allows the university or the state school or Plymouth college or wherever they're attending that is a state institution to charge them any cost of doing that. I suspect that the cost might be in correcting test, the cost may be in providing materials, any associated costs would go to them and the committee found that this was an appropriate use of otherwise empty chairs and that there would be no cost involved, even though the university put a fiscal note on it that suggested that there would be cost, and three questions to the head of the university system, she agreed that there would be no cost, if in fact the schools charged the cost of their . . . , allowed to charge under this legislation, so I would urge you to support the committee on this.

SENATOR CURRIER: Senator, is it really the provision that the tuition is waived, the students would actually pay all the other related lab fees, testing fees, and everything else?

SENATOR HEATH: That is the case.

SENATOR CURRIER: Thank you.

SENATOR ROBERGE: Senator Heath, would this be opening this particular program up to all state employees?

SENATOR HEATH: No, just to the state police and it may be that all state employees will come in looking for the same opportunity. I mean that has always been the option and always will be an option,

just as all unwritten laws are options. I mean there is always the option to bring in any kind of legislation. This doesn't change that option, this just opens it up for one group.

SENATOR ROBERGE: Senator Heath, why were the troopers singled out?

SENATOR HEATH: I don't know, I didn't sponsor the legislation.

SENATOR ST. JEAN: Would you believe Senator Heath, that they put their lives on the line everyday in order to attract competent, capable individuals in our state police force who, by the way, try their own cases around this state. We thought it would be an added benefit to get some capable people and continue to get capable people as state troopers on our highways and byways.

SENATOR HEATH: In respond to your question. I would believe that, and I also believe that an educated police force is a better police force. And I also believe that the mix of the state police on our campuses with students will educate both of them about each other and some of their sensitivities towards each other, so that is why I support this.

SENATOR ST. JEAN: I believe that Senator.

SENATOR DELAHUNTY: Senator, could you please define the specific definition of a New Hampshire state police officer and an assistant who is part time and full time, and is it meant to include clerical as well as patrol men?

SENATOR ST. JEAN: It's my understanding it's the 100 and somewhat individuals who are full time state troopers. It does not, in my understanding of this legislation, include part time or clerical individual Senator.

SENATOR DELAHUNTY: Does it include both part time and full time?

SENATOR ST. JEAN: No, it does not. It doesn't include part time or clerical individuals, Senator. This wasn't intended to do that.

Recess.

Out of recess.

SENATOR RUSSMAN: I would like to speak in opposition to the committee recommendation and essentially I think that this should be part of the negotiated bargaining with the SEA if they want something like this and I think that it's somewhat discriminatory against the other SEA employees or bargaining units or what have you. But it just seems as though it should be for all state employees

and not just for those state employees. I don't think that any courses that they're going to take at the university or colleges here are going to make them do a better job either in the courtroom or otherwise. It certainly is not going to make lawyers out of them in terms of trying their cases.

SENATOR CURRIER: Senator Russman, is it now policy that state employees have the right to negotiate those aspects of it? It's my understanding that they only have bargaining rights for money items and that they can't bargain for this kind of thing. There is a bill coming up later that will address that, but I'm not sure they have that right now.

SENATOR RUSSMAN: They may or may not: I don't know. Except there is a bill coming up for that provision and that's probably where it ought to be addressed in order to be fair and not at this particular juncture.

SENATOR HEATH: Senator Russman, is it foundation of your position that all treatment of state employees, no matter their particular discipline, should be the same legislatively. That no one who might not grant anyone, as far as educational, speciality that would help them in your field?

SENATOR RUSSMAN: Well I'm not sure I understand your question totally, but I think Fish & Game Department employees, we have another bill for policemen, we have one for firefighters and these are all people that if you want to say, put their life on the line in which I suppose somehow entitles them to education. If it's in their related field or something. Maybe that's something that should be considered, but at the same time I think that this is something, that when they get hired to come to work, this was not a provision of it and I think this is going to add to additional cost and I think it's discriminatory against the other people.

SENATOR HEATH: Senator Russman, what do you find as a cost of the state in this bill, in the language in this bill?

SENATOR RUSSMAN: Well I suppose you raise issues as to what is going to be class size. I mean should that be increased if there is a large number of people who want to go, should they make an exception? You see the chairs will be filled or should they bring in more additional chairs to make sure that it's available. Well someone used the space available I suppose, is that going to create additional problems as far as additional cost in correcting the examinations or making the examinations?

SENATOR HEATH: They're charged for those.



SENATOR RUSSMAN: It still doesn't get away from the fact that it is discriminatory, Senator.

SENATOR NELSON: Senator St. Jean, I noticed that we have been talking about putting an educated trooper force on as you suggested. What about parole officers, what do you think about parole officers who are now coming in for retirement, do you think that we ought to have an educated parole force?

SENATOR ST. JEAN: Senator, if you feel that that is a group that deserves and warrants consideration I would suggest that you put that legislation in.

SENATOR NELSON: Senator St. Jean, the question is not whether I feel that it is warranted, but you, in having done your study relative to the state police, was anything mentioned about parole officers?

SENATOR ST. JEAN: No, it wasn't brought to my attention Senator.

SENATOR NELSON: Thank you.

SENATOR COLANTUONO: I would like to rise in support of Senator Russman's point of view and to point out several problems that I see with the bill. First of all, by singling out one certain class of state employees and I don't have any problem with the class that we are singling out, I think that they do a fine job, but by singling them out, you are basically getting your foot in the door and you are establishing a precedent and there really is after this bill is passed no principal basis for denying the same right to any other class of state employees. And for that reason alone I think that we have to understand that if we pass this bill we are essentially passing a tuition waiver in the future for all employees because they're all going to come and ask for the same privilege and we will have no basis to say no. The second point, is that there is a cost to this and it's not reflected in the fiscal impact. The cost is the foregone opportunity of the state educational system to acquire the tuition paid, which would otherwise be paid by these individuals and if you take the cost per course and multiply it by the total number of troopers, and then on the next bill which we have the total number of police officers from, rather from cities and towns, that could run into an enormous amount of money. The state troopers in this state are well paid and they have the money to go to school if they want to and by giving them a tuition waiver we are foregoing income that we should be receiving. And I think that those are some serious concerns that should be addressed before we vote on this vote.

SENATOR J. KING: They do have a retirement system that is two different kinds of retirement. There is one for law enforcement or hazardous duty and there's one for the regular employees, so we do have distinctions. They have one for the state hospital that has a salary arrangement because of the type of duty that they have. I think that the other thing to keep in mind is that I think it's a good investment for these policemen. They deal with things on a daily basis, confront some of the lawyers in a courtroom. So any knowledge that we can provide these people with, so that they can make sure that the case that they are dealing with when they do go to court, that they are able to handle the situation and handle it well. I certainly think that it's an investment where it has no cost to the state at the present time.

SENATOR HEATH: Senator Colantuono, if we grant the premise on the cost of this bill that you laid out, at least a portion of those state police officers would have gone anyway and that that tuition is lost, would you grant the premise that a portion of those would not have gone and that we will get enough courses on a space available thing to then buy into a degree where many of those courses won't have spaces available as they go towards a degree. So that they will in fact attract as a sampler and an investment. It will attract many of those people to go on and buy tuition that would not otherwise have done it and that that would balance the cost of those who would have gone anyway and paid tuition.

SENATOR COLANTUONO: I think you lost me. Please rephrase that?

SENATOR HEATH: I'm assuming, let me lay an assumption on the question. I'm assuming that you, your foundation of your hidden cost theory is that many of those people would have gone to the university and paid tuition. If this bill doesn't pass and that that tuition is lost because now we are giving it away?

SENATOR COLANTUONO: That is right.

SENATOR HEATH: I'm asking you if you don't think that there would be balance to that cost, not disagreeing that that theory is correct, but those who would not otherwise go on to the university, but will now get an investment of so many credits by doing it and on those that there is no space available, will buy tuition and complete their degree and that will balance those additional students that wouldn't otherwise have been going for a degree and would otherwise been buying tuition, then will have to buy tuition and those courses that there is no spaces available to finish their degree, will that balance the cost of those who would've gone anyways?



SENATOR COLANTUONO: I guess to answer that, I would have to say that when someone knows that they can get something for nothing, they find a way not to have to pay for it. And that dovetails into Senator Russman's comments about what is space available. If space available means that they have to add five more chairs to the classroom or hold a class in a different size class room so that they can make room for these officers, I'm sure they will find a way to do it. No, I don't agree that you will have troopers going in and paying for tuition for courses when there aren't enough chairs in the classroom. Sorry.

SENATOR ST. JEAN: Currently Senators, people on parole, those individuals that have spent time up the street get what we are offering in this piece of legislation to our state troopers. People on parole can go to any of the state's institutions at no cost, right now. So I suspect that we ought to at least offer that to our state troopers.

SENATOR CURRIER: I'm kind of staggered here by that statement. I guess I really don't have a question. I just want to say let's find out if that information is true.

SENATOR ST. JEAN: Senator, it's true. It came up at the hearing. One of our state troopers brought that in and, in fact, it is true.

### **Amendment to SB 204-FN**

Amend the bill by replacing section 1 with the following:

1 New Section; Tuition Waiver. Amend RSA 106-B:6 by inserting after section 6 the following new section:

106-B:6-a Tuition Waiver.

I. Any person who is employed as a New Hampshire state police officer shall be entitled to a tuition waiver at any of the state's schools, colleges, or universities. Enrollment shall be conditional, based upon the applicant's ability to meet the school's entrance requirements and the availability of space in the class.

II. Each individual enrolled under the tuition waiver program shall be required to pay for books, laboratory fees, and other expenses that may be incurred as a result of his enrollment.

III. Any person entitled to a tuition waiver under this section shall apply to the board of trustees of the university system or to the board of governors established under RSA 188-F:3, as appropriate, for the waiver, and the appropriate board may require such proof as it may deem necessary in order for a person to qualify for the waiver.



**AMENDED ANALYSIS**

This bill would allow any person employed as a New Hampshire state trooper to attend courses at any state school, college, or university on a tuition-free basis. Enrollment shall be conditional based on the applicant's ability to meet the school's entrance requirements and on available seats in the class. Each individual shall be responsible for providing his own books, supplies and equipment.

Amendment Adopted.

Referred To Finance (Rule #24).

Senator Colantuono and Podles in opposition to SB 204.

**SB 227-FN**, an act relative to tuition free classes at state universities for local police officers. Education committee. Ought To Pass With Amendment. Senator J. King for the committee.

**SENATOR J. KING:** We are asking for your support for SB 227-FN. The reasoning behind this bill is exactly the same as the reasoning behind the bill that we just approved, so the difference being one is the local police officer and one was the state police officer. So without carrying it out any further I'll respect the request that you will go along with this bill also.

**SENATOR NELSON:** Senator King, I was just interested, what about firemen who are putting their lives on the line of duty and dealing with complicated issues now, dealing with hazardous waste, and also at which there are courses at these universities and also, what about school teachers who are paid by municipalities?

**SENATOR J. KING:** Well first of all, school teaches already have a college education to begin with.

**SENATOR NELSON:** So they want to advance.

**SENATOR J. KING:** And so don't parole officers, by the way before you ask, and they have to have it. But the reason that we selected the policemen is because of the different type of work. The contact daily, what you face in the courtroom, and the knowledge that you have to have. Even dealing with the public, how you deal with the public, how you write the reports. There are so many basic things that cover the whole community. That is why we thought that they should have much more knowledge then any other of the people that we just talked about.

**SENATOR NELSON:** So Senator King, you're saying that firemen don't need to be on this bill?

**SENATOR J. KING:** Not at this time, no.

**SENATOR NELSON:** Thank you.

SENATOR OLESON: I rise in support of SB 227-FN, and the reason that I support it is because everytime that I go home and I pick up the local paper, I find out where some policeman has violated somebody's civil right and he is collecting \$50, \$75, to \$100 thousand in my little town and I don't like it. So I think that all the more education that we can give to the people that we select to enforce the law, which happens to be on the book, the better that we are. So the biggest reason that I am supporting this bill is financially, I think that it would be a saving to every town in the state of New Hampshire if we do have a most highly educated police force which this aims to do. Thank you.

SENATOR FRASER: Senator King, are we going to allow all police officers whether they have been working for the municipalities for a week or for a year, whether they are certified, or non certified, or whether they are part time or full time. There are no qualifications, no criteria as to who would qualify as a police officer in a municipality. And in my town we have probably as many part timers as we do full time police officers.

SENATOR J. KING: I would say whether you're doing it part time, whether you're doing it full time, you're doing the job that is necessary for that town according to the size of that town. And whether you're doing 2 cases or 100 cases, you need the same type of knowledge to carry out and do it right as you would in either situation.

SENATOR ROBERGE: Senator King, is there any length of time, any time limit that they would put on this? I mean they could take classes for the rest of their lives?

SENATOR J. KING: If they used their own time, they are devoting hours, weeks, and over the course of the years, the time that is put in there is valuable also. I think that if they're willing to put in the time and the state is willing to contribute the space if it's available, I think that it is an investment no matter what they keep, hopefully, that they will continue over the years so that they will keep abreast of what the situation is.

SENATOR ROBERGE: Senator King, is it possible that the university might have a class that is severely under-enrolled and they might consider canceling it except for all these extra people that would be willing to take it?

SENATOR J. KING: I would think that if they were going to cancel it that the seats wouldn't be available. I don't think that would change the situation.

**Amendment to SB 227-FN**

Amend RSA 188-F:29-a, I as inserted by section 1 of the bill by replacing it with the following:

I. Any person who is employed by a municipality as a police officer shall be entitled to a tuition waiver at the university system of New Hampshire or any of the state's postsecondary technical institutions. Enrollment shall be conditional, based upon the applicant's ability to meet the school's entrance requirements and the availability of space in the class.

**AMENDED ANALYSIS**

This bill would allow any person who is employed by a municipality as a police officer to attend courses at the university system of New Hampshire or at a state postsecondary institution on a tuition free basis. Enrollment shall be conditional based upon the applicant's ability to meet the school's entrance requirements and on available seats in the class. Each individual shall be responsible for providing his own books, supplies and equipment.

Amendment Adopted.

Referred To Finance (Rule #24).

Senators Colantuono and Podles in opposition to SB 227.

**SB 84**, an act establishing a committee to review the architects' proposals, site location, and costs of a new Rockingham county superior court building. Capital Budget committee. Inexpedient To Legislate. Senator Fraser for the committee.

**SENATOR FRASER:** Mr. President, this was probably the most speediest public hearing that Capital Budget has conducted in recent history. There were two witnesses, Judge Dunfey and the gentleman who represents plants and buildings. As the Senate President knows, there is a Capital Budget oversight committee and I think that this bill, and the committee felt that this bill 84 was deflected of the efforts of that committee in the future, so for that reason the committee was unanimous that this bill be reported out as inexpedient to legislate and at this time I urge the body to support the committee report. Thank you.

**SENATOR HOLLINGWORTH:** I support the motion, I was asked to submit the bill and the lady found that it was unnecessary.

Committee Report Adopted.

**SB 27-FN**, an act establishing minimum mandatory sentences of imprisonment for assault crimes where the victim is a law enforcement officer. Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the committee.



SENATOR COLANTUONO: The original bill here was a bill to require mandatory prison terms for those persons who commit assaults on police officers. At the hearing the committee felt that that wasn't the best way to go, but a better way to go would be to add assault on police officers into the statute that we already have allowing Judges to give extended terms of imprisonment under RSA 651:6. So we've simply submitted an amendment which is page 5 in the calendar which adds assault on police officers as subsection H of the current law, just below the law that was passed last year concerning victims of assault crimes due to religion, race, creed and etc.

SENATOR HEATH: Senator Colantuono, why would you single out a group that is trained, armed, knowledgeable that they face risks and danger and not have an enhanced penalty on all of the, for all of the citizens, whether it's a grocer or train station operator or those people who are not knowingly facing danger who are generally untrained and unarmed. Why wouldn't you want the same penalty for the same crime for all of our citizens?

SENATOR COLANTUONO: I think the testimony at the hearing would have suggested that police officers, well educated police officers who put their lives on the line everyday in the service of our state deserve the special protection that this law gives. It makes a statement first of all, a policy statement that police officers are considered specially protected persons in the law. That persons who assault police officers are committing crimes that are more serious. The same reasoning that was suggested in the legislation last year and I think it's a policy decision that this body should vote to support the police officers.

SENATOR HEATH: Do you believe that it's a worst crime to, for criminals to get the equal amount of punishment on a police officer or on a grocer? I mean on a police officer, is it a worst crime to do it to him than it is to do it to the grocer, the butcher, the baker, the candlestick maker?

SENATOR COLANTUONO: Well the committee felt that whether or not it is a worst crime it deserves a possibility of a worst punishment. There is nothing in this bill that requires a more severe punishment. But it allows a judge in his or her discretion to mete out a worse punishment.

#### **Amendment to SB 27-FN**

Amend the title of the bill by replacing it with the following:

## AN ACT

relative to extended terms of imprisonment for assault crimes  
where the victim is a law enforcement officer.

Amend the bill by replacing all after the enacting clause with the following:

1 Extended Term of Imprisonment. Amend RSA 651:6, I(g) to read as follows:

(g) He was substantially motivated to commit the crime because of hostility towards the victim's religion, race, creed, sexual orientation, national origin or sex; or

**(h) He has committed or attempted to commit any of the crimes defined in RSA 631 where the victim was, at the time of the commission of the crime, a law enforcement officer acting in the line of duty.**

2 Effective Date. This act shall take effect January 1, 1992.

## AMENDED ANALYSIS

This bill provides for extended terms of imprisonment for assault crimes where the victim is a law enforcement officer.

Amendment Adopted.

Ordered To Third Reading.

**SB 81**, relative to damages for wrongful death. Judiciary committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The Senate Judiciary committee by a 3 - 1 majority believe that this bill as amended will result in a more fair system in the recovery under wrongful death. We feel that this is fair to women and men who have chosen to remain at home to raise their families and to provide for ill or elderly family members. We believe that this is consistent with New Hampshire's policy and we hope that you will vote favorably ought to pass with amendment.

SENATOR PODLES: Mr. President, and Senators. I rise in opposition to this bill. SB 81, if passed would expand damages for known economic lost for a surviving spouse beyond the point presently recognized by the New Hampshire law. At the present time, a surviving spouses' rights to damages for loss of consortium, ends with the death of the other spouse. Under SB 81, the right to such damages would be extended beyond the death of the other spouse, presumably for the full life expectancy of the surviving spouse. SB 81, runs contrary to the 1986 tort reform legislation which attempted to put some limits to put a lid on tort recoveries for noneconomic loss. The



bill also contradicts the conclusion reached by the Supreme Court in recent cases which the court cautioned that allowing additional non-economic damages for wrongful death was bad public policy. An additional noneconomic loss can not be properly compensated by money damages. They are emotional in nature, they're difficult to define, to quantify and they could lead to disproportionate awards, thus increasing insurance and also litigation. New Hampshire law already fully recognizes all economic loss to survivors in wrongful death cases, and no additional legislation is needed. SB 81, and that's the amendment on page five. It also increases from \$50,000 to \$150,000 the limit on damages in cases where the decedent left no children, left no parent or dependant relative. This increase would provide a windfall to people who are distant relatives. There was a lot of opposition from the business community, the BIA, Retail Merchants Association, the Association of General Contractors, New Hampshire Retail Grocers, New Hampshire Hospital Associates, American Insurance Associates, National Associates of Independent Insurers, New Hampshire Association of Commerce and Industry. SB 81, is not consistent with efforts to keep a lid on tort damages and I urge that SB 81, be found inexpedient.

SENATOR HEATH: Senator Podles, you mention that this would raise the insurance cost. Wouldn't that then put this in a category of a mandated cost on towns and cities?

SENATOR PODLES: It certainly would and on all businesses, too.

SENATOR HEATH: Senator Podles, do you know why this never had a fiscal note?

SENATOR PODLES: I was surprised that it didn't have a fiscal note.

SENATOR HEATH: Senator, does this look like a lawyer's relief act here?

SENATOR PODLES: It does, it absolutely does.

SENATOR HOLLINGWORTH: It's difficult for me to go against Eleanor because I appreciate how hard she has worked over the years on the legislation and the committee felt the same, but I think it's necessary to state why we felt that this was good legislation. Presently, under wrongful death the method in which we recover is just to the estate of the person who has been wrongfully injured or in fact wrongfully killed, because the only way that this takes place is after the person is deceased. So Eleanor is correct when she says that there is present recovery, but that is only up until the death of the individual. And then we have this very elaborate procedure in



which we determine what the estate can recover for. One, the Estate can recover for pain and suffering. That is if you're fortunate enough to live long enough to have pain and suffering. That is why under New Hampshire law so often you hear if you hit somebody or injure somebody, make sure he is dead because it will cost you a lot less if you kill him then if you just injure him. Certainly that is not the policy that we would feel is appropriate for New Hampshire. Secondly, we may recover, the estate may recover for the hospital cost, the burial cost and the taxes. Again, this does not compensate the true victims, those people who are left behind who must carry on without the help and assistance of the family members and it's particularly unfair to those members who do not have assistance elsewhere. Thirdly, the recovery is for what the deceased person would have earned in his lifetime. In other words, if you are a young, healthy, productive male, or a woman who happens to have an extremely good job, your future earnings would be considerably great. If, unfortunately, you happen to be a woman who has chosen to stay home and raise your children and to provide for your children you will be penalized for making that decision. Because the value of your job as a housewife does not carry the monetary value had you been out in the work place. It also doesn't take into consideration the seniors who are providing for, sometimes today in our society being what it is, their grandchildren, because their children have left them with children to raise. And even though they may no longer have a salary coming in, they are providing needed service and care. If those services are not provided by someone, hopefully, in this case we believe it's appropriate that the person who committed the wrong should be paying. They will have to be picked up by someone else and in many cases it is the state. We would have to institutionalize these people, we would have to find foster care homes for some of these people and we would have to put demands on state services. Therefore, we feel that it's appropriate that this legislation does go forward and that it does consider the other things. It does not mandate any cost onto the cities and towns because all that it does is allow the courts and a jury to look at the cost and other considerations to make a fair and equitable monetary value to the family for what they have lost.

SENATOR ST. JEAN: Senator Hollingworth, for example, if a woman who had raised say four or five kids and they are going down route #93 and were killed by a drunk driver. Could you tell me how this piece of legislation would affect that individual who has never worked a day in her life, other than raising her children which I suspect is more than 40 hours a week?

SENATOR HOLLINGWORTH: The court could then determine what it would have cost for her to provide for her children to continue on with her services to those children. As it presently stands there would be no value or very little value placed on her life. The court may consider ways in which they could provide someone to drive those children to school, to keep those children within the home to provide household services, to prepare meals within the home and to those other needed tasks until those children became of age.

SENATOR ST. JEAN: Could it be argued then Senator, without this piece of legislation that this woman conceivably could end up on AFDC?

SENATOR HOLLINGWORTH: Absolutely.

SENATOR FRASER: Senator Hollingworth, the second part of the amendment, the heavy black part, that is the amendment, is that not so? I am looking down at the very part that says care, assistance, society, companionship, comfort, guidance, counselor, and advice of a decedent. How is a court suppose to evaluate those, those things that are not in the law today?

SENATOR HOLLINGWORTH: I'm sure Senator Fraser, because you're very familiar with the law that those terms are used under present law and that the lawyers very well know what those conditions in terms mean.

SENATOR FRASER: At the public hearing, was the New Hampshire Trial Bar Association represented?

SENATOR HOLLINGWORTH: Yes, I believe they were.

SENATOR RUSSMAN: Yes, I would just indicate I have practiced law for about 18 years and I have not myself ever had a wrongful death case. But I would say that if any of you or any of your constituents had the situation arise, their spouse would certainly want the coverage that is offered here. And I think if one of you passed away you would want to see that your spouse was covered, or if one of your constituents were. So I think that it's a reasonable piece of legislation. The judges instruct the jury very specifically on the meanings of the various words and then it's left up to the jury of our peers, of our fellow citizens as to what should actually be awarded in terms of damages, if any. So I think that you ought to vote in favor of it.

SENATOR PODLES: Senator Russman, isn't it true that the present law is fair and it does consider the earnings of the person that is deceased and also takes into consideration everything else, education and housing and whatnot?



SENATOR RUSSMAN: No, I don't believe that the present law is fair in its present form.

SENATOR HUMPHREY: The impression was left that in the hypothetical case of a spouse who had a number of children, who was killed, that the law presently leaves that spouse with no recourse. Is that the situation?

SENATOR HOLLINGWORTH: I believe that's true.

SENATOR HUMPHREY: I find that very difficult to believe. Will somebody who knows something about this explain it further? It's a fundamental question. If there is some uncertainty about it, we ought to table this thing until we know.

SENATOR HOLLINGWORTH: I think it's clear if you look at the law. It clearly states that under the present law the decease, estate is what recovers, not the compensation to the family members. And that is clearly what is under the law presently. And at the time of death any compensation dies with that person who is deceased. That is the present statute. That means that you would only be able to determine your life's earnings and subtract what it would have been, your necessary cost for you to survive.

SENATOR PODLES: The law, what SB 81 does, is it expands the noneconomic loss for a surviving spouse. The present law takes into consideration the life expectancy, but what Senator Hollingworth wants, is she wants that to go beyond, for the whole life, for all of the life, the full life and so this is the difference.

Recess.

Out of recess.

SENATOR HOLLINGWORTH: The question was raised about the amendment to the last part of the bill that it increases the amount of money to a distant relative. That again is only by the determination of the jury, if it goes to a jury trial and the court. They may weigh that if someone who is a distant relative should be compensated. And why is that there. I don't know whether many of you have aunts and uncles who have no one, who did not have children and who are being provided for. I happen to have one. Right now he is going through Alzheimers, it is convenient for us to keep him at home. Should I die, who would provide for him? Again it would be the cost of the state. That's why it's there. That the court, it could be brought in. If I didn't have children and they were my family, why shouldn't it then be allowed to be brought in to court to determine whether those people should be provided for. Someone has committed a wrongful act against me and killed me, taken my life away. Why



shouldn't those people who depended on my service be able to be compensated? And as to whether this affects the tort cap, it does not. The tort cap is still in place and does nothing to change that. We have to have faith in our juries and our court systems.

SENATOR PODLES: Senator Hollingworth, isn't it true that the \$150,000 damages would affect a relative, it could be a cousin?

SENATOR HOLLINGWORTH: That is true, if the court determined that I was providing needed services to them and without my being alive they were going to be deprived of those services and they had no one else to provide for them. Then the court could determine that yes, in fact, they should be entitled to receive that amount of money.

SENATOR PODLES: So Senator, it wouldn't have to be a child, it could be a cousin, or a distant relative?

SENATOR HOLLINGWORTH: Again Senator Podles, that's true if the court and the jury determine that the services that I were performing for them necessary.

SENATOR HUMPHREY: Senator Hollingworth, how many states are there laws of this kind?

SENATOR HOLLINGWORTH: Well at the hearing we heard several different numbers thrown around. One group said there was 37, another group said there was others, I could not tell you for a fact, how many states have this.

Senator Currier has moved the question.

Adopted.

### Amendment to SB 81

Amend RSA 556:12 as inserted by section 1 of the bill by replacing it with the following:

556:12 Damages for Wrongful Death[,]; Elements. **Except as limited by RSA 508:4-d**, if the administrator of the deceased party is **the** plaintiff, and the death of such party was caused by the injury complained of in the action, the mental and physical pain suffered by the deceased in consequence of the injury, the reasonable expenses occasioned to [his] **the decedent's** estate by the injury, the probable duration of [his] **the decedent's** life but for the injury, and [his] **the decedent's** capacity to earn money during [his] **the decedent's** probable working life, may be considered as elements of damage in connection with other elements allowed by law, in the same manner as if the deceased had survived. **In addition, if the decedent has left a**

surviving spouse, who is the beneficiary of the decedent's estate, the fair monetary value of services, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice of the decedent to such person, may be considered as an additional element of damage. If the decedent has left either a child, father, mother, or any relative dependent on the plaintiff's decedent, who are the beneficiaries of the estate, the fair monetary value of the services, care and assistance of the decedent to such person or persons may be considered as an additional element of damage.

A Roll Call was requested by Senator Roberge.

Seconded by Senator Podles.

The following Senators voted Yes: Oleson, W. King, Disnard, Blaisdell, Bass, Pressly, Nelson, Colantuono, J. King, Russman, St. Jean, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Heath, Fraser, Hough, Currier, Roberge, Podles, Humphrey, Delahunty.

Yeas: 14

Nays: 8

Senator McLane not voting, excused.

Amendment Adopted.

Ordered To Third Reading.

**SB 115-FN**, relative to livestock. Public Affairs committee. Inexpedient To Legislate. Senator Roberge for the committee.

### MOTION TO RECOMMIT

Senator Roberge moved to recommit to Public Affairs committee.

Adopted.

**SB 115-FN**, relative to livestock, is Recommitted to Public Affairs.

**SB 161**, relative to meetings of community associations. Public Affairs committee. Ought To Pass. Senator Roberge for the committee.

**SENATOR ROBERGE:** SB 161, having to do with notification of tenants in condos. It's a question of cost actually, now the community has to notify the tenants by certified mail and that cost \$2.29 a letter, requiring a signed card by the person receiving the mail. The proposal is for changing the method of notification by mailing still, but a certificate of mailing which would cost 50 cents apiece. The committee thought that this was fair and voted ought to pass.

Adopted.

Ordered To Third Reading.

**SB 164**, relative to maintaining the current subsidized multi-family rental housing stock in New Hampshire. Public Affairs committee. Interim Study. Senator Bass for the committee.

SENATOR BASS: This bill essentially allows tenants and then subsequent to that a community, a right of first refusal on the purchase of subsidized housing. The thinking behind this effort is essentially that if a project receives a federal subsidy that there should be some residual right granted, either to the community or the tenants associated with the project, to have the opportunity to purchase the housing in order to keep it in its original use. A bill similar to this one was introduced and passed both houses two years ago and was vetoed by the Governor. The committee has recommended interim study because the federal government currently in Congress is in the process of promulgating new legislation, perhaps passing a new law which would cover much of the content of this bill. And it was felt that we ought to defer consideration of this issue until next year or the year after. The committee urges your support of the committee recommendation on interim study.

Adopted.

**SB 164**, is sent to Interim Study.

**SB 184-FN**, relative to voter registration. Public Affairs committee. Ought To Pass With Amendment. Senator Cohen for the committee.

SENATOR COHEN: The committee unanimously recommended ought to pass. The purpose of this bill is to simply make it easier for people to register to vote and it offers the cities and towns the option to allow the town or city clerk, along with the tax collector or treasurer, the right to register people to vote in that town. It allows people one-stop shopping, basically instead of two. The amendment tightens it up such that it is only the town or city clerk and the tax collector or treasurer, so that it's uniform in each town. I urge you to vote favorably ought to pass with the amendment.

### Amendment to SB 184-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Voter Registration; Application to Tax Collector or Treasurer. Amend RSA 654:8-11 to read as follows:

654:8 Application to Town or City Clerk, **Tax Collector or Treasurer**. Any person who has his domicile in any town or city in this state and whose name does not appear on the checklist of said town or city may apply to the town or city clerk, **tax collector, or treasurer**, for the purpose of having his name added thereto by filling



out the form provided for in RSA 654:7. The office of the town or city clerk, **tax collector or treasurer** shall have the power to accept applications from such persons under the following conditions:

I. The supervisors of the checklist shall determine the qualifications of voters as provided in RSA 654:12.

II. The supervisors of the checklist may issue guidelines to the town clerk, **tax collector or treasurer** for the taking of evidence of qualifications presented by applicants.

III. No application hereunder shall be accepted after the last meeting of the supervisors of the checklist before an election.

IV. Such application shall be made during the regular office hours of the town or city clerk, **tax collector or treasurer**.

654:9 Forms to be Forwarded. The town or city clerk, **tax collector or treasurer** shall present at the next meeting of the supervisors of the checklist the triplicate registration forms of all persons making application to him since the previous meeting of said supervisors.

654:10 Exemption. The provisions of RSA 654:8 and 654:9 shall apply in all cities and in all towns unless, upon a vote at a town meeting, a town chooses to exempt itself from such requirements. In a town which is exempt from the provisions of RSA 654:8 and 654:9, the town clerk, **tax collector or treasurer** shall have none of the powers and duties provided for therein, which powers shall be exercised by the supervisors of the checklist, unless and until at a subsequent annual town meeting the town votes to rescind said exemption.

654:11 Application to Supervisors. When the supervisors of the checklist receive a registration form from the town or city clerk, **tax collector or treasurer** or when an applicant submits the form to said supervisors in person at a session for the correction of the checklist, the supervisors of the checklist shall cause his name to be added to the checklist, unless they are of the opinion that the applicant is not qualified to vote in the city or town under RSA 654:1 through 654:6. All decisions of the supervisors of the checklist shall be made by majority vote thereof.

2 Voter Registration; Application to Person who Collects Vehicle Registration Fees. Amend RSA 654:19 to read as follows:

654:19 Execution; Submission; Effect. The absentee registration affidavit shall be executed before a person authorized to perform notarial acts pursuant to the provisions of RSA 456-A. Such officer, after executing the certificate, shall attach thereto proof of his official capacity and shall forward the affidavit and certificate along with the applicant's registration form to the clerk, **tax collector or treasurer** of the town or city named for submission to the supervisors of the checklist. If the supervisors find that the affidavit and

certificate are properly executed, they shall follow the procedure for applications made in person as provided in RSA 654:11, 654:13, and 654:15. An affidavit and a certificate which are properly executed shall be considered valid and shall be effective for both a primary and a general election for armed services voters and for absent voters who reside outside the continental United States.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill permits a voter to have his name added to the checklist by applying to register to vote with the tax collector or the treasurer in the city or town where the person registering to vote has his domicile.

The bill still permits supervisors of the checklist or city or town clerks to register voters, as provided under current law.

Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

### REMOVED OFF THE TABLE

Senator W. King moved to take **SB 219** Off The Table.

Adopted.

**SB 219** restructuring the state art fund. Public Affairs committee. Inexpedient to legislate.

SENATOR W. KING: I would like to endorse the committee recommendation of inexpedient to legislate.

### SUBSTITUTE MOTION

SENATOR COLANTUONO: I would like to make a motion to substitute ought to pass with amendment and there is a floor amendment ready to be passed out.

Adopted.

SENATOR COLANTUONO: The history of this bill was that, originally what I wanted to do was to take out the portion of the art fund bill that called for an automatic ½ of one percent of the bid contract price of each new building or major addition authorized by the Capital Budget to be paid from the general fund. I believe that in these economic times such legislation wasn't appropriate. Funding for art,



for public buildings is a good and worthy cause, but it's the kind of thing that a lot people, frankly, feel is a frill and it's not something that our taxpayers should be required to pay for every time a public building is built. Especially because of the fact that under the current bill this money comes out of bonding and once the money is spent, the taxpayers have to pay it back over a period of time. There was feeling in the body that that bill wasn't a good idea. There was sentiment that some members of the body wanted to keep that in place; however, do something to restrict it and the suggestion was made that a cap of \$50,000 in any given year be placed upon how much money could go into the art fund. Now I had research check into how much money has been coming into the fund in recent years, and I found that in fiscal year 1987, \$110,000 came into the fund and \$10,000 was spent out. In 1988, \$87,000 came into the fund and \$37,000 was spent out. In 1989, \$86,000 came into the fund and \$59,000 was spent out. Then in 1990 there was a balance. A running balance of approximately, \$187,000 in the fund and they spent out \$87,000 of it and then \$100,000 was lapsed to take care of the financial problems of the state. And basically, as I understand the situation of the fund right now, it contains about \$1. In fiscal year 1991 there is \$5,000 pledged right now for the Concord Court House. They're expecting to get about \$13,000 for the Concord Court House. So that was the basis for the compromise position of capping the amount to come in at any one year at \$50,000. It was fairly close to what's been coming in in the past several years and certain members felt that there was a reasonable compromise to make the point that we are in hard economic and financial times and that we want to be fiscally responsible to the voters and the taxpayers and this is one important way to show that we are trying to be that way. So I would urge adoption of the floor amendment.

SENATOR PODLES: Senator Colantuno, isn't it true that it is not going to save the state any money, even if you take it away, because it's going to go to the contractor anyway, that ½ of one percent?

SENATOR COLANTUONO: Well as I understand the way the cap would work is once the \$50,000 came into the fund the half percent would no longer be in effect. And so the taxpayers wouldn't have to add that amount to the bond of any new project in that fiscal year.

SENATOR PODLES: But Senator, isn't it true that once the contractor has the contract, that that ½ of one percent comes out of the contractors money?

SENATOR COLANTUNO: If what you're asking is that the contractor pays the money.



SENATOR PODLES: Yes, it comes out of the contractors money.

SENATOR COLANTUNO: I don't believe that's the way the current legislation reads. The current legislation reads that  $\frac{1}{2}$  of one percent of the bid contract price of each new building or major addition authorized by the Capital Budget is paid from the general fund.

SENATOR PODLES: Then could you tell us when does that  $\frac{1}{2}$  of one percent come into play?

SENATOR COLANTUONO: It's my understanding that the amount that is bonded includes the money for the art fund and is transferred into the general fund and then paid to the art fund. That is bonded money that the state is obligated for, that the state taxpayers have to pay back over the course of the bond.

SENATOR NELSON: Senator Colantuono, in keeping with this fiscal, whatever it's called now, responsibility. What about the carpeting and the light fixtures, and just put light bulbs in? Do you think that we should start cutting back on rugs and stuff and carpeting and light and paint? Why stop at the arts?

SENATOR COLANTUONO: Well the answer to that is no, I don't think that we should do that.

SENATOR BASS: Senator Colantuono, I have a follow-up question from Senator Podles question. Assuming in a given year there are a series of contracts let for the construction or improvements of certain buildings in the state and general contractors all bid on these projects knowing that  $\frac{1}{2}$  of one percent is going to be allocated for the purchase of art. Let's assume near the end of the year that the \$50,000 cap is attained if your amendment were to pass. What would happen to the  $\frac{1}{2}$  of one percent in those contracts that were let to general contractors that were not, were expended after the cap was reached. Who would get that money?

SENATOR COLANTUONO: Well I am not sure there would be any money in that situation. Perhaps I'm not understanding your question properly, but once the cap is reached there wouldn't be that extra amount of bonding for the new projects.

SENATOR HUMPHREY: Senator Nelson, the language of the amendment which I assume parallels the existing law except the assertion of language regarding the cap says that  $\frac{1}{2}$  of one percent of the bid contract price is to be paid from the general fund. Is that correct? It is paid from the general fund, so that that language indicates, does it not, that this  $\frac{1}{2}$  of one percent, whatever it may be in a given case, comes out of the general fund not out of a capital account, right? Am I correct in that?

SENATOR NELSON: Well I think that you have to read the rest of the law if it's not written on this page. Yes, to answer your question, yes, that is what it says on the paper.

SENATOR HUMPHREY: O.K. so if you've got a \$1,000,000 in capital expenditure,  $\frac{1}{2}$  of one percent of that, would an amount equal to  $\frac{1}{2}$  of one percent of that would be drawn from the general fund to purchase works of art? Is that correct? That is what it says.

SENATOR NELSON: I think what has to happen is, I'm going to pass you over this book, the RSA's on page 79 on :2. Why don't you add that to what you're reading on the first paragraph. Perhaps if just read that for a second, and then you might understand it better.

Recess.

Out of recess.

SENATOR HUMPHREY: Well actually, if it comes out of the bonded that makes it even worse. Because the ultimate expense of the acquisition of the art becomes that much more expensive. Frankly, I think that this is preposterous. I can't imagine why Senators are considering for a moment continuation of this law that requires an extra  $\frac{1}{2}$  of one percent to be added to capital expenditures to purchase art. If you put that question to the people of this state, you know, Senators know full well what the answer would be. It would not only be no, it would be hell no! You might even get some language even stronger than that. This is suppose to be a frugal state, we are suppose to be the stewards of the monies extracted from our fellow citizens in the way of taxes. To be sure that there are a lot of other extravagancies no doubt. But here is one before us, let's deal with it. For the artsie-craftsie types, let them raise the money by public subscription. You know there is a big arts community in this state and they have a lot of political power. Witness the people squirming in their chairs in this place. But let them raise it by public subscription. It is a frill. And we ought to say no, and we ought to say no resoundingly. I think that we ought to be ashamed of ourselves for letting this sorry situation continue. I am only, I regret that Senator Colantuono has choosen to water down his original proposal which in my opinion was excellent, and that he would have to seek to water it down in hopes of gathering a thin majority is a sign of the political power of the arts community or the folly of members of this body, one or two, one or both. And I commend the Senator for his work on this matter and I hope that he succeeds. He ought to succeed easily and he ought to succeed from far beyond this amendment.



SENATOR HEATH: Senator King, do any of the towns in your district, have they adopted a percent to the art program on local capital expenditures?

SENATOR W. KING: Senator Heath, I haven't asked any of them the question. I don't know.

SENATOR HEATH: Senator King, do you believe that the people of your district want this art tax at this frugal time when we are laying off state employees?

SENATOR W. KING: I believe that the people of my district and the people of the state of New Hampshire understand that there are certain things that make life worth living and one of those things is the art that adds to our culture, that adds to the beautification of our buildings and that certainly adds to the culture of the state as a whole. This Senate decided some years ago, that it was a small thing to set aside a small percentage of the dollars that go into a capital project for the purchase of art for that project.

SENATOR HEATH: Senator King, would you prefer that state employees be laid off or abandoning this cost at this time would save one state employees job, that that might be a higher priority?

SENATOR W. KING: Senator Heath, as Senator Colantuono pointed out to you, the amount of money that is generated for this fund on a yearly basis is a relatively small amount of money and certainly not the equivalent to even one state employees salary.

SENATOR HUMPHREY: Is the Senator suggesting that most state employees make more than \$50,000 a year?

SENATOR W. KING: No, that is not what I am suggesting, Senator Humphrey. I am suggesting that if you average it out over a period, over a number of years, what goes into the fund is far less than what is one employees salary, that's all.

SENATOR ST. JEAN: I stand here today to applaud Senator Colantuono for what I think to be a worthwhile amendment. Now my dear friend Senator Humphrey, the time has come Senator, that you ought to not challenge each and every Senator in this chamber. Somehow challenge how fiscally conservative individual Senators are, would you believe? Would you believe Senator Humphrey, that the Senator from Manchester on certain issues agrees with you. I've been a member of this Senate, would you believe Senator, for about the same time that you were down in Washington. It ought not to be your job to remind us what is right and what is wrong in this chamber. The people in here come from a variety of different areas, with a variety of different beliefs, and each and every one of us Senator, has



a right to our own beliefs. And you ought not to be up on high somehow, questioning the motives of each and every Senator, on any given day when the moon is right. Would you believe Senator, that this is a good group of people and I don't want to listen to this everyday that I come into this chamber. Would you believe?

SENATOR HUMPHREY: Yes.

SENATOR BLAISDELL: Didn't we in the last session of the legislature, how much did we pay for that chest of drawers that we are preserving?

SENATOR W. KING: Oh, was it \$150,000? It was a significant amount.

SENATOR BLAISDELL: Did anyone forget about that? If we add that into the budget we could probably sell that Senator Humphrey. Maybe we could do that. Didn't we set aside \$1,000,000 in the last session of the legislature to buy artifacts throughout the state? I just don't understand where some of these things are coming from, but I would hope Senator King, wouldn't you believe, though, that if you are looking at  $\frac{1}{2}$  of one percent of the bid contract, wouldn't it be wonderful for this state of New Hampshire, would you believe, if we were able to collect that percentage point, because then people would be building and we wouldn't have to be worrying about whether we are laying off state employees in the state?

SENATOR W. KING: You bet.

SENATOR BLAISDELL: Wouldn't it be wonderful.

SENATOR SHAHEEN: I would just like to speak in favor of the bill. I'm not as willing to stereotype the voters of my district as Senator Humphrey is. I believe that I have a number of those voters who would be interested in supporting this kind of legislation because they support the arts. And I would like to recognize on behalf of, I'm sure everyone here, that supporting the arts is not only good for our culture, it's good business. The chamber of commerce in Dover every summer has a big arts festival that lasts all summer long and they do that because it brings business into downtown Dover. And because supporting the arts is good business and they recognize that. I would just also like to say that as Senator Colantuono has pointed out that since contributions to the art fund have averaged only about \$50,000 or less over the last few years, am I misquoting you, Senator Colantuono?

SENATOR COLANTUONO: Just a little, you're not far off.

SENATOR SHAHEEN: O.K. Well I guess my question is, if that's what happened over the last 'x' number of years, then why do we need a cap on this, given that is what's happening anyway?

SENATOR NELSON: Just for the record Mr. President, and fellow Senators. Roughly, 30 people came in against this bill. No one came in to support the legislation except for the sponsor. It also was an opportunity for New Hampshire residents who are called artists to get paid their living wage from time to time. I just want to make it clear that no one from the general public came in, nor did I receive any calls supporting this legislation. So I just want to say that there was no hue and cry from the public at least at the hearing supporting the legislation.

SENATOR SHAHEEN: I think this is a parliamentary inquiry. If I want to correct my earlier statement when I said that I support the bill, which I don't, I should have said I don't support the bill. How would I do that?

PRESIDENT DUPONT: Well Senator, I would respond that the original committee report was inexpedient to legislate. When it was taken off the table it was inexpedient to legislate. The substitute motion of ought to pass with amendment. The amendment is a higher priority than ought to pass so we are dealing with the amendment at this point in time. So if you are opposed to the bill and opposed to any changes, you would vote against the amendment that is before you at the present time.

SENATOR HUMPHREY: I would like to address the matter further, Mr. President.

PRESIDENT DUPONT: You may, Senator Humphrey.

SENATOR HUMPHREY: Senator Nelson has pointed out that 30 persons testified in favor of the bill and no one testified against the bill. Excuse me, the other way around. Well it's not a remarkable phenomenon in a legislative body for the special interest to turn out in numbers and to have a communications network far superior to the general interest. I would suggest that it's part of our responsibility to understand that and to factor that into our judgement. As to the statement of Senator Nelson, about this fund helping artists earn a living wage, is this to be known as an artist employment part of the law? Is that what we are doing?

Senator Blaisdell has moved the question.

Adopted.

### **Floor Amendment to SB 219-FN**

Amend the bill by replacing section 1 with the following:

1 State Art Fund Restructured. Amend the introductory paragraph of RSA 19-A:9, I to read as follows:

**19-A:9 Art Fund**

I. There is hereby established a non-lapsing art fund consisting of ½ of one percent of the bid contract price of each new building or major addition authorized by the capital budget to be paid from the general fund **provided, however, that each fiscal year payments to the art fund shall not exceed \$50,000.** As used in this section, "major addition" means any addition which increases by 25 percent or more the square footage of the building to which it is being added. Contracts for the following projects are excluded:

**Amended Analysis**

This bill modifies the state art fund by limiting the amount of deposits to the fund for each fiscal year.

The question before you is the amendment offered by Senator Colantuono.

A Roll Call requested by Senator Heath.

Seconded by Senator Nelson.

The following Senators voted Yes: Heath, Fraser, Currier, Roberge, Colantuono, Humphrey, J. King, Russman, St. Jean, Delahunty.

The following Senators voted No: Oleson, W. King, Hough, Disnard, Blaisdell, Bass, Pressly, Nelson, Podles, Shaheen, Hollingworth, Cohen.

Yeas: 10

Nays: 12

Senator McLane not voting, excused.

Floor Amendment Fails.

The question before you is the ought to pass motion.

Ought To Pass Motion Fails.

Senator King moved Inexpedient To Legislate.

Adopted.

SB 219, is Inexpedient To Legislate.

**RESOLUTION**

SENATOR DELAHUNTY: This Resolution is on behalf of myself and Senator Disnard. Rather than read the resolution I would just like to explain that it is a resolution honoring President Bush, in our leadership and our fellow allies in support of the United Nations Resolution and the fine job that was done with the coalition members in liberating Kuwait and the Iraqi aggression. Thank you.



**SR 5**, honoring President George Bush for his leadership in the War in the Persian Gulf. (Delahunty of Dist. 22; Disnard of Dist. 8)

Adopted.

### RECONSIDERATION

Senator W. King moved that, having voted with the prevailing side, I now move reconsideration of our action on SB 225, whereby we sent the bill to Interim Study and have the bill on second reading at the present time.

Motion Adopted.

SB 225-FN, relative to the higher educational building corporation and loan eligibility.

Senator W. King moved to recommit SB 225-FN, to the Education committee.

Motion Adopted.

SB 225-FN, is Recommitted to the Education Committee.

### ANNOUNCEMENTS

**SENATOR BLAISDELL (Rule #44):** You just pretty much covered the announcement, but I offer tomorrow morning in Senate Finance, we will be sitting there, we will be there all day long and any other time that you would like to come and see us. I think that this is very important. If you have some ideas on how to balance the supplemental budget and also your ideas on what you can do with the budget that will be facing us, I want you to know and I want to put aside some rumors here. There is no special, no hidden agenda down in Senate Finance. The doors are open, you can come in at anytime, and the reason that I am saying that is because I don't want to come up here on the Senate floor at the end with the budget in my hand and have someone tell me that they didn't have the opportunity to come down and talk to us. It's there and if you have the ideas, you come and talk to me because I'll tell you, I am running out of them right now. And that is just on the supplemental budget and wait till you come to the big one. So I don't want anyone to say to me on the floor of the Senate that day, that we have got to cut this guy's position or this woman's position, please come and see me.

**SENATOR HEATH:** Senator Blaisdell, I just want to make it clear because I don't believe that you're implying, and I certainly hope that you're not implying that criticism of that piece of legislation that's going to be coming out, is precluded by having had the opportunity to make suggestions to your committee tomorrow?

SENATOR BLAISDELL: Never. Never has Senator. I didn't mean that. You took it that way.

SENATOR HEATH: I just wanted that reassurance.

SENATOR BLAISDELL: Well you have it from me Senator. Trust me.

SENATOR HEATH: Thank you. What did you say, trust you?

### RESOLUTION

Senator Delahunty I move that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until 1:00 p.m. Thursday, March 7, 1991.

Adopted.

Senator Currier moved that we adjourn until Thursday, March 7, 1991 at 1:00 p.m.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage

**SB 27-FN**, relative to extended terms of imprisonment for assault crimes where the victim is a law enforcement officer.

**SB 81**, relative to damages for wrongful death.

**SB 161**, relative to meetings of community associations.

**SB 184-FN**, relative to voter registration.

Senator Currier moved to adjourn.

Adopted.

Adjournment.

*March 7, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, we mourn and pray for the souls of all those who lost their lives in the Gulf War. We also rejoice with those whom are*

*coming home to their families and friends. So may we do the best we can to make our own peoples lives better.* *Amen*

Senator Shaheen led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### COMMITTEE REPORTS

**SB 16-FN**, relative to the board of dental examiners. Executive Departments committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This is a request of the Attorney General's Office. The purpose of the bill was to clean up and modernize some of the language, to get it in line for language for other boards. Basically, it is a modernization. The amendment deals with some of the problems that some of the various groups had. We were lucky to have concurrence and agreement by the Dental Board, and the Dental Society, and the Dental Hygienists. All of the interested parties agreed to the amendment and we recommended it ought to pass.

### Amendment to SB 16-FN

Amend RSA 317-A:8, II as inserted by section 1 of the bill by replacing it with the following:

**II. Any person applying for any license or privilege under this chapter, including any person seeking to convert from inactive to active status, shall provide the board with information relating to dental competence and professional conduct, to permit the board to make a fully informed decision that the applicant possesses sufficient competence and character to be issued a license under this chapter.**

Amend the bill by replacing all after section 3 with the following:

4 Misconduct by Licensees and Applicants; Disciplinary Action. RSA 317-A:17 is repealed and reenacted to read as follows:

317-A:17 Professional Misconduct.

I. The board may undertake disciplinary proceedings or proceedings to determine the qualifications of applicants for licensure:

(a) Upon its own initiative; or

(b) Upon written complaint of any person which charges that a person licensed by the board has committed misconduct under paragraph II of this section and specifies the grounds therefor, or charges that an applicant for a license lacks necessary qualifications and specifies the grounds therefor.



II. The board, after notice and the opportunity to be heard, may refuse to issue a license or impose sanctions against a licensee, when it has evidence that the licensee or applicant has engaged in professional misconduct. Misconduct sufficient to support adverse action shall include:

(a) Habitual use of drugs or intoxicants.

(b) Commission of a felony or any crime involving moral turpitude, or the use of any fraud or deceit in obtaining educational credentials, examination scores, or professional licensure in this or any other jurisdiction.

(c) Affliction with a physical or mental impairment or disease which is dangerous to the public health or which precludes the practice of dentistry, or any speciality thereof, at ordinary levels of proficiency.

(d) Ignorance, incompetence, or a pattern of behavior inconsistent with the basic knowledge and skills expected of persons licensed to practice dentistry or any speciality thereof.

(e) Gross or repeated negligence in practicing dentistry, any dental speciality, or activities ancillary to the practice of dentistry.

(f) Intentionally injuring a patient or engaging in any other unprofessional or dishonest conduct in practicing dentistry, any dental speciality, or activities ancillary to the practice of dentistry.

(g) Failure to provide adequate safeguards regarding sterilization techniques, sanitation, or radiation techniques.

(h) Advertising the licensee's dental practice by using any newspaper, broadcast, cable transmission, telephone, sign, poster, or other advertising message which:

(1) Deceives or is intended to deceive the public concerning dental services, techniques, the qualifications of a licensee, or the prices to be charged;

(2) Claims or suggests that the licensee enjoys professional superiority or performs services in a manner superior to other persons licensed by this chapter or that the licensee performs services or any particular service in a painless manner; or

(3) Announces the use of any drug or medicine of an unknown formula or any system or anesthetic that is unnamed, misnamed, misrepresented, or not in reality used.

(i) Employing or permitting an unlicensed person to practice in the licensee's office.

(j) Knowingly or willfully violating any provision of this chapter, any substantive rule or order of the dental board, the code of ethics of the New Hampshire Dental Society or the American Dental Association, or any federal, state or local controlled drug law or other federal, state, or local laws or regulations pertaining to the practice of dentistry.

III. The board may take disciplinary action in any one or more of the following ways:

(a) By license revocation or suspension.

(b) By limitation or restriction of a license.

(c) By requiring the licensee to submit to the care, counseling or treatment of a physician, counseling service, health care facility, professional assistance program, or any comparable person or facility, approved by the board.

(d) By requiring the licensee to participate in educational programs relevant to the practice of dentistry in substantive areas in which the licensee has been found professionally deficient.

(e) By requiring the licensee to practice under the direction of a dentist in a public institution, public or private health care program, or private practice for a period of time specified by the board under rules adopted pursuant to 541-A.

(f) By assessing administrative fines in amounts established by the board which shall not exceed \$2,000 per offense or, in the case of continuing offenses, \$250 for each day the violation continues.

(g) By reprimand.

IV. Upon receipt of an administratively final order from the licensing authority of another jurisdiction which imposed disciplinary sanctions against any person licensed by the board, or any person applying for licensure, the board may issue an order directing the licensee or applicant to appear and show cause why similar disciplinary action or, in the case of an applicant, license denial or restriction, should not be imposed in this state. In any such proceeding, the decision of the foreign licensing authority may not be collaterally attacked, but the licensee or applicant shall be given the opportunity to demonstrate why a lesser sanction should be imposed. When acting under this paragraph, the board may issue any disciplinary sanction or take any action with regard to a license application, which would otherwise be permitted by this chapter, including sanctions or actions more stringent than those imposed by the foreign jurisdiction. The board shall adopt rules, pursuant to RSA 541-A, relative to handling summary proceedings brought under this paragraph, but shall furnish the respondent at least 10 days' written notice and an opportunity to be heard.

V. The board shall conduct an investigation of any person licensed by the board who has been the subject of 3 insurance claims or legal judgments for medical injury as defined in RSA 329:17, III, which pertain to 3 different events within any consecutive 5-year period commencing with January 1, 1988.

5 New Section; Disciplinary Action; Immunity. Amend RSA 317-A by inserting after section 17 the following new section:



317-A:17-a Immunity from Civil Action. No civil action shall be maintained against the board or any member thereof or its agents or employees. No civil action shall be maintained against any organization or its members or against any other person for or by reasons of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

6 Investigations and Complaints. RSA 317-A:18 is repealed and reenacted to read as follows:

317-A:18 Investigatory Powers of the Board; Complaints.

I. The board may investigate possible misconduct by licensees and any other matters governed by the provisions of this chapter. Investigations may be conducted with or without the issuance of a board order setting forth the general scope of the investigation. Board investigations and any information obtained by the board pursuant to such investigations shall be exempt from the public disclosure provisions of RSA 91-A, unless such information subsequently becomes the subject of a public disciplinary hearing. However, the board may disclose information obtained in an investigation to law enforcement or health licensing agencies in this state or any other jurisdiction, or in accordance with specific statutory requirements or court orders.

II. The board may appoint legal counsel, dental advisors or other investigators to assist with any investigation and with adjudicatory hearings.

III. The board may commence a formal or informal investigation, or an adjudicative hearing, concerning allegations of misconduct and other matters within the scope of this chapter on its own motion whenever it has a reasonable basis for doing so, and the type of procedure chosen shall be a matter reserved to the discretion of the board. Investigations may be conducted on an ex parte basis.

IV.(a) The board may administer oaths or affirmations, preserve testimony, and issue subpoenas for witnesses and for documents during any formal investigation or adjudicatory hearing. The board may also subpoena patient records, as provided in paragraph V, during formal investigations.

(b) The board shall serve any subpoena not covered by paragraph V in accordance with the procedures and fee schedules established by the superior court, except that:

(1) Any person licensed by the board shall not be entitled to a witness fee or mileage expenses for travel within the state.

(2) The board shall not be required to tender witness fees and mileage expenses in advance if the subpoena is annotated "fees guaranteed by the New Hampshire board of dental examiners."



(3) The respondent shall be allowed at least 48 hours' to comply with a subpoena issued under this chapter.

V. The board may at any time subpoena dental records from its licensees and patient records from hospitals, pharmacies, and other health care providers or facilities licensed by or certified in this state. Such subpoenas shall be served by certified mail or by personal delivery to the address shown on the licensee's current license, and no witness or other fee shall be required. A minimum of 15 days' advance notice shall be allowed for complying with a subpoena duces tecum issued under this chapter.

VI. All licensees and any persons applying for licensure or any other privilege granted by the board shall have the duty to keep the board informed of their current business and residence addresses. A licensee shall receive adequate notice of any hearing or other action taken under this chapter if notice is mailed in a timely fashion to the most recent home or business address furnished to the board by the licensee.

VII. Any complaint of licensee misconduct shall be in writing and shall be treated as a petition for the commencement of a disciplinary hearing. The board shall fairly investigate all complaints to the extent and in the manner warranted by the allegations. Any complaint which fails to state a cause of action may be summarily denied in whole or in part. Some or all of the allegations in a complaint may be consolidated with another complaint or with issues which the board wishes to investigate or hear on its own motion. If an investigation of a complaint results in an offer of settlement by the licensee, the board may settle the allegations against the licensee without the consent of a complainant, provided that material facts are not in dispute and the complainant is given an opportunity to comment upon the terms of the proposed settlement.

VIII. At the commencement of an adjudicatory proceeding, or at any time during a formal or informal investigation, and without issuing a subpoena, the board may mail a statement of the issues being investigated or heard to any licensee or other person who is a proper subject of inquiry and require the licensee or other person to provide a detailed and good faith written response to the allegations identified by the board. The licensee or other person shall provide complete copies of his office records concerning any patient whose treatment is relevant to the matters at issue. The licensee shall respond to such request within a reasonable time period of not less than 15 days, as the board may specify in its written request.

7 Hearings; Decisions; and Appeals. RSA 317-A:18-a is repealed and reenacted to read as follows:

317-A:18-a Hearings; Decisions; and Appeals.

I. Any adjudicatory hearing shall be an open public proceeding. Any member of the board or any other qualified person appointed by the board may preside at such a hearing and may issue oaths or affirmations to witnesses.

II. The board shall furnish the licensee or any other respondent at least 15 days' written notice of the date, time and place of a hearing, except as otherwise provided in this chapter. Such notice shall include an itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to whether the action has been initiated by a written complaint or upon the board's own motion, or both. If a written complaint is involved, the complainant shall also receive a copy of the hearing notice and shall be provided with a reasonable opportunity to intervene as a party.

III. Any person appearing at a board hearing of investigation may be represented by legal counsel, but the board shall have no obligation or authority to appoint or provide an attorney to any person appearing at a board hearing or investigation.

IV. The board may at any time dispose of issues or allegations at an adjudicatory hearing, or an investigation, by default, settlement agreement, or consent order, by issuing an order of dismissal for failing to state a proper basis for disciplinary action or by summary judgment order based upon undisputed material facts. In disciplinary hearings, the board may hold prehearing conferences which shall be exempt from the provisions of RSA 91-A, but all final disciplinary actions, including those which occur without holding a public hearing, shall be available to the public.

V. Adjudicatory decisions and final disciplinary actions of the board shall be made by a majority of the board members participating in the decision. Such decisions shall not be made public until they have been reduced to writing, signed by a representative of the board, and served upon the parties.

VI. Decisions of the board may be appealed to the supreme court pursuant to RSA 541. The court shall not stay any disciplinary sanction imposed by the board pending appeal, if the board has determined that the sanction is required for the public safety and welfare.

8 New Section; Temporary Suspension Where Imminent Threat. Amend RSA 317-A by inserting after section 18-a the following new section:

317-A:18-b Temporary Suspension Where Imminent Threat. In cases involving imminent danger to life or health, the board may order suspension of a license or privilege granted under this chapter pending hearing for a period of no more than 60 days. In such cases, the basis for the board's finding of imminent danger to life or health shall be reduced to writing and combined with a hearing notice which complies with RSA 317-A:18, XI and RSA 541-A:16, III. Not-



withstanding the requirements of RSA 541-A:15, III, the board's hearing may commence as much as 30 days after the date of the order suspending the license. If the board does not commence the hearing within 30 days, the suspension order shall be automatically vacated, but a licensee shall be allowed additional time to prepare for or to complete a hearing under this paragraph only by agreeing to a further suspension commensurate with the additional time extended.

9 Examination Fee Amount Removed; Rulemaking. Amend RSA 317-A:21 to read as follows:

317-A:21 Dental Hygienist License. The board shall grant a dental hygienist license to any person who is of good professional character, is at least 18 years of age, pays [a \$40] **an examination fee as established under rules adopted by the board pursuant to 541-A**, is a graduate of [a training] **an accredited** school for dental hygienists requiring a course of not less than 2 academic years and approved by the board and passes an examination designed by the board on subjects which the board considers essential for a dental hygienist.

10 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill:

(a) Extends the rulemaking authority of the board to provide for the imposition of administrative fines and to permit regulation of any other matters related to the chapter.

(b) Deletes the \$40 penalty fee for failing to register and the \$40 examination fee for dental hygienists as presently enumerated under the chapter, and instead authorizes the board to set such fee amounts pursuant to its rulemaking authority.

(c) Specifies the types of dental conduct which could result in disciplinary action by the board.

(d) Provides immunity from civil liability to board members, the board's agents or employees, or any organization or its members which gives a good faith statement to the board.

(e) Sets forth the procedures for hearings and investigations.

(f) Requires licensees and persons applying for licensure to notify the board of current business and residence addresses.

Amendment Adopted.

Ordered To Third Reading.

**SB 20-FN**, relative to licensing nutritionists and dietitians. Executive Departments committee. Ought To Pass With Amendment. Senator J. King for the committee.



SENATOR JOHN KING: The committee felt that the nutritionists and the dietitians were concerned and were very interested in becoming licensed. However, they could not completely agree on how it should be done and who should have input and how it should be done. So we set up a committee to do just that and they will report back I think in December.

### **Amendment to SB 20-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study the licensure  
of dietitians and nutritionists

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee Established; Membership. There is established a committee to study the licensing of dietitians and nutritionists in the state of New Hampshire. The committee membership shall be as follows:

I. Two senators, appointed by the president of the senate.

II. Two members of the house of representatives, appointed by the speaker of the house.

III. The commissioner of the department of health and human services or designee.

IV. One member from the maternal and child health bureau, appointed by the director of the division of public health services.

V. A physician, appointed by the New Hampshire Medical Society.

VI. A representative of a hospital, appointed by the New Hampshire Hospital Association.

VII. A representative of a home health care provider, appointed by the New Hampshire Health Care Association.

VIII. Two dietitians, appointed by the New Hampshire Dietetic Association, Inc.

IX. Two nutritionists, appointed by the New Hampshire affiliate of the American Nutritionists Association.

X. A representative of the university of New Hampshire cooperative extension service who works in the nutrition field, appointed by that service

XI. A representative of the university system of New Hampshire faculty who teaches in the nutrition field, appointed by that faculty.

XII. A representative of the American Heart Association, appointed by that association.

XIII. A representative of the American Cancer Society, appointed by that society.

XIV. A representative of the National Federation of Independent Business, appointed by that federation.

XV. A representative of the Retail Merchants Association, appointed by that association.

XVI. A representative of a weight loss instructional program holding regular classes throughout the state of New Hampshire, appointed by the president of the senate.

2 Appointment. The members of the committee shall be appointed within 30 days of the effective date of this act.

3 Report. The committee shall submit the results of its study in the form of a report, including any proposed legislation, to the speaker of the house, the senate president, and the governor on or before September 15, 1991.

4 Meetings; Chair. The first member of the senate appointed by the senate president shall call the first meeting of the committee within 60 days of the effective date of this act. At the first meeting, the members shall choose from among them a chair, a vice-chair, and a clerk. The duties of each shall be determined at the first meeting. All subsequent meetings shall be at the call of the chair.

5 Compensation. Members of the committee shall serve without compensation, except that the legislative members shall receive mileage at the legislative rate when attending to the duties of the committee.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study the licensure of dietitians and nutritionists in the state. The committee shall report to the governor and legislative leadership by September 15, 1991.

Amendment Adopted.

Ordered To Third Reading.

Senator Colantuono (Rule #42).

**SB 24**, relative to revising the administrative procedure act. Executive Departments committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: I am a new member of the Administrative Rules, so this is Senator Bass's bill. Even in the short time that I have been on Administrative Rules I've learned the difficulty in sometimes obtaining a quorum. This bill adds to the group. Those

serving on Administrative Rules the opportunity to appoint alternates and with that I urge the committee to please adopt SB 24, thank you.

SENATOR PODLES: Senator Fraser, do I understand the bill correctly, are we appointing substitutes?

Senator Fraser: Alternates.

SENATOR PODLES: Alternates, in Administrative Rules? If you serve on the committee and Administrative Rules you can appoint a alternate? I have just heard the tail end of this and I am concerned.

SENATOR FRASER: I am going to defer to Senator Bass if he will.

Recess

Out Of Recess

SENATOR BASS: Senator Podles, this bill does indeed allow the President of the Senate, and the Speaker of the House, to appoint two alternates as a former member of the, no, you are existing member still. Excuse me, are you?

SENATOR PODLES: You should know, you are a member of the committee and I have been each time.

SENATOR BASS: We have just demonstrated why we need alternates.

SENATOR PODLES: Why do we need alternates?

SENATOR BASS: As you well know we have spent, the staff of the committee has spent a lot of unnecessary time trying to call people in for the meeting. Which have taken one day a month, but as many instances it has been taking two days a month. It is an extremely significant part of the functioning of the state Government that these rules be enacted and reviewed in a timely fashion. If we get a quorum, and a quorum is six. My feeling is that the committee should have capacity to bring as many as four more people if necessary. This is a process that has been used on other committee's, Land Conservation Investment Program for one and it's worked very well. The other part of the bill clarifies some language which would make it more difficult for departments to propose interim rules as permanent rules.

SENATOR PODLES: Senator, would you believe that it will lack continuity appointing an alternate?

SENATOR BASS: In response to that Senator Podles, the material that the Administrative Rules Committee brings up is generally different every meeting. What the alternates needs to know is what the



proper procedure is and what options that are available. For example, the preliminary objection, or a final objection, or an approval. The fact is that the material from one committee to the next isn't necessary in what happened in the previous meeting. What is important is to know what the status is to a given proposed rule is. What prior action did the committee take and that's usually covered in the staff recommendation in the introduction.

SENATOR NELSON: Thank you, as a member of the Administrative Rules for two terms and now starting my third term, I rise in strong support of this piece of legislation. Because it is a duty in which you serve year round, in other words you go the third Friday of every month including the summer and there is no vacation from this. I strongly support it because I have been a member for four years and there has been instances where many of us, five of us have driven to Concord and waited and had to send all those department heads away and cancel the meeting because it is one of the few committees that you can not operate without a quorum. Secondly, I would also hasten to add there are two alternates appointed by the Senate President, and two by the House, so we would not be rotating people. So we would have the same two people once they would have a little crash course, if you will, with the attorney's. Learn what was going on and it would be the same two people, so we would not be bringing new people to the table all the time. Thank you!

### **Amendment to SB 24**

Amend 541-A:3-j, I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) A new or amended state statute, provided, however, that an agency shall not publish notice of a proposed interim rule more than 90 days after the effective date of the new or amended statute; or

Amend 541-A:3-j, II(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Publishes notice of a proposed interim rule in a newspaper of daily statewide circulation and files the proposed interim rule, with the cover sheet as provided in paragraph IV, with the legislative budget assistant and the director of legislative services no later than the date of publication of the notice; or

Amend 541-A:3-j, V(b) as inserted by section 2 of the bill by replacing it with the following:

(b) The committee shall vote to approve the rule or object under subparagraph (c). Objections to a proposed interim rule may be made only once.

Amend RSA 541-A:3-j, V(d) as inserted by section 2 of the bill by replacing it with the following:

(d) The following procedures shall govern committee objections:

(1) If the committee objects to the proposed interim rule, it shall notify the agency promptly by sending the agency a written objection stating the basis for the objection and recommending that the agency amend or withdraw the proposed interim rule. An objection shall require the assent of a majority of the votes cast, a quorum being present.

(2) If the committee makes an objection to the proposed interim rule, the agency may cure the defect or withdraw the interim rule. The agency shall respond to a committee objection only once, and shall report its response in writing to the committee prior to its next regularly scheduled meeting. Failure to respond to the committee in accordance with this subparagraph shall mean the rulemaking procedure for that proposed interim rule is invalid; however, the agency is not precluded from initiating the process over again for a similar rule provided that the conditions in paragraph I are met.

(3) The committee shall review the response and vote to approve the response or continue the objection.

(4) The committee's objection shall not preclude the agency from adopting the substance of an interim rule by meeting the requirements of RSA 541-A:3.

Amend 541-A:3-j, V(e) as inserted by section 2 of the bill by replacing it with the following:

(e) No proposed interim rule shall be adopted unless within 90 days of filing the notice the committee votes to approve the proposed interim rule.

Amend 541-A:3-j, VI as inserted by section 2 of the bill by replacing it with the following:

VI. No proposed interim rule shall be adopted unless the committee has voted to approve the proposed interim rule. An adopted interim rule shall be filed with the director of legislative services no later than 30 days following committee approval. An interim rule shall be effective upon filing with the director of legislative services, or at a later date, provided the agency so specifies in a letter to the director of legislative services and the effective date is within 30 days following committee approval. Interim rules shall be effective for a period not to exceed 120 days. During the time an interim rule shall be in effect, the agency may propose a permanent rule to replace the interim rule once it expires, but it shall not adopt another interim rule to replace the expiring interim rule.

Amendment Adopted.

Ordered To Third Reading.



Senator Podles in opposition to SB 24.

**SB 35-FN**, requiring the legislative budget assistant to identify and make available for inspection a list of certain state-mandated programs. Executive Departments committee. Inexpedient To Legislate. Senator Currier for the committee.

Recess

Out of Recess

**SENATOR CURRIER:** The Subject matter on SB 35, is covered under at least two other bills that have gone before the committee and basically, the sponsor is drawn action in light of more significant wording in other bills dealing with the same subject matter.

Committee Report Adopted.

**SB 42-FN**, relative to the board of podiatry. Executive Departments committee. Inexpedient To Legislate. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This is a similiar bill to the dental bill. It is a request by the Department of Justice and does do many of the same things. However, in this particular piece of legislation there was a serious dispute in the Podiatrists profession concerning the scope of Podiatrists practice. Section five of this bill on page three, keeps the existing requirement or prohibition actually that no Podiatrist is authorized to perform amputations. There is a certain segment of the profession that wants that power. They came into that hearing and we heard some rather bizarre testimony at the hearing, not only did they want to do this, but they are already doing it, in violation of the law. The committee gave some time to the groups to try to fix this problem. No one came forward, so at our last executive session we decided to just report the inexpedient to give the parties another couple of years to straighten out their problem. We felt that the existing law is working fine enough that it would not hurt anyone to let it go for another two years and we could come in and clean it up. I understand the sponsor has a different thought on it.

**SENATOR BLAISDELL:** I certainly agree with what Senator Colantuono says. We got mixed up the Chiropractors and now it is the Podiatrist. It's a serious problem here and it was brought to me by the Attorney General's Office and other people and that is why we put in this bill. I think I am the one who dropped the ball, really. They were suppose to get back to the committee and I took the word of the Podiatrist that they would get back to Senator Colantuono.

If I may, can I ask the Senate to Lay this SB 42, on the table until I can get back to the committee and just at least try to straighten it



out. I think it is a very important thing. There is some real serious problems with this and he is right, and they are not suppose to be operating on people's feet.

SENATOR DISNARD: Would you believe 23 other Senators would like to have the record show that you apologized?

Senator Hough motioned to have SB 42-FN, Laid On The Table.

**SB 48-FN**, requiring a temporary tenure for new departments, agencies or divisions. Executive Departments committee. Inexpedient To Legislate. Senator J. King for the committee.

SENATOR J. KING: The committee felt that SB 48, had content that could be included in the bill that would come up shortly so we decided to make this Inexpedient to Legislate and include the content from the other bill.

Committee Report Adopted.

**SB 56-FN** relative to sunset laws. Executive Departments committee. Inexpedient To Legislate. Senator W. King.

SENATOR W. KING: SB 56, has material contained in it that is similar to another bill before our committee. Sponsors have agreed the two King's, the one from the North and the one from the South have agreed to work together to try drafting something that is acceptable to both of them.

Committee Report Adopted.

**SB 133**, relative to resellers of telecommunication services. Executive Departments committee. Interim Study. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill would make a policy decision that under the Public Utility act, resellers of telecommunications services are not considered to be Public Utilities. The problem with this legislation at this time is that the exact issue at this present time is before the Supreme Court in litigation regarding a reseller from the Seacoast area. The committee felt that it would be inappropriate to make a legislative policy decision prior to the Supreme Court and answering the legal question involved. For that reason the committee felt that would be most appropriate to refer this to Interim Study pending the Supreme Courts decision.

Adopted.

**SB 133** sent to Interim Study.

**SB 214-FN**, exempting certain programs or projects of the Christa McAuliffe planetarium from the state's competitive bidding process.

Executive Departments Committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: What this bill does is under the current law all expenditures on the part of the Christa McAuliffe Planetarium has to be approved by G.C. Senator Heath is Chairman of the Commission, and he brought the bill to us that would exclude from prior approval by G.C. any specialized Planetarium program or equipment. Which the estimated cost probably funded from Gibbs grants donation from the Planetarium fund would be exempt from the competing process and from the prior approval of the G.C. This is a good bill Mr. President, it addresses a concern that Senator Heath, as Chairman of that Commission, I urge the Senate to adopt the committee report.

SENATOR HEATH: Just briefly, I want to assure everyone I believe in the competitive bid process, but it doesn't sound like it in the title. All this does is when putting together a program this isn't for capital purchases, building, equipment, pieces of equipment that can be competitively bid. We, for example, upcoming program we will be buying some laser consultancy, we will be buying some software, we will be renting a sound track. They are almost without exception a sole source and this bill simply says that if they are part of a program and if the cost of the program has been entirely gifted then that exception would take place and this is not equipment and this is not capital projects. Simple, we found that we are doing a huge amount of paperwork when there is only one source of almost all the elements in the program and I would in opposition if it wiped out competitive bidding on equipment or any capital project even if it was gifted.

#### **Amendment to SB 214-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

exempting specialized programs or equipment of the  
Christa McAuliffe planetarium from the state's  
competitive bidding process.

Amend RSA 21-K:14, VI as inserted by section 1 of the bill by replacing it with the following:

VI. Enter into contracts as provided in paragraph V, provided that all contracts, agreements, procurement, personnel, and operations shall be subject to the same requirements as all state agencies[.]; **provided, however, that any specialized planetarium**

**program or equipment for which the estimated cost is totally funded from gifts, grants or donations to the planetarium fund shall be exempt from competitive bidding requirements.**

### **AMENDED ANALYSIS**

This bill exempts the Christa McAuliffe planetarium from competitive bidding requirements if a gift, grant or donation covers the total estimated cost of a specialized program or equipment.

Amendment Adopted.

Ordered To Third Reading.

**SB 139-FN**, relative to preventing damage to underground utility installations. Executive Departments committee. Ought To Pass With Amendment. Senator Currier for the committee.

SENATOR CURRIER: The amendment that is listed on page nine, is incorrect in the amendment that is being passed out is basically the, actually the 10 of the Executive Departments committee. This bill that was originally filed as an above ground utility piece of legislation dealing with a lot of the safety factors that are consumed in the underground utility called dig safe. The Public Utilities Commission spoke against the above ground piece of this legislation and I, as prime sponsor and because of the lack of support on the part of some other utilities and so forth. We have to not fight inexpedient to legislate on this particular aspect of it. However, the Public Utilities Commission Engineers, did have a suggestion for an amendment clarifying the excavator liability in the underground portion of the current legislation. Basically, the Executive Departments Committee went forward with that amendment and it was printed. It should have just been that amendment which is printed on page nine, new paragraph two and that's all that is supposed to be on there. It is not supposed to have the rest of the other bill in it and the amendment #1893L, is the correct version, not the one that was printed in the calendar.

### **Amendment to SB 139-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to preventing damage to aboveground and  
underground utility installations.

Amend the bill by replacing all after section 1 with the following:  
2 New Paragraph; Excavator Liability. Amend RSA 374:55 by inserting after paragraph IV the following new paragraph:



IV-a. If marked underground facilities are damaged, the excavator shall be subject to a civil penalty of up to \$500 and liable for the cost of repairs for the damage.

3 Effective Date. This act shall take effect January 1, 1992.

### AMENDED ANALYSIS

This bill adds a new subdivision relating to damage prevention to aboveground utilities. The bill sets minimum clearance levels that apply to individuals working near aboveground utilities and provides procedures for clearance arrangements, payment and notice. The public utility commission is authorized to assess a civil forfeiture of \$1,000 per day per violation for violations of this subdivision.

In addition, this bill subjects excavators to a civil penalty of up to \$500 and the cost of repairs for damage to any marked underground facility.

Amendment Fails.

Senator Currier offered a floor amendment.

### Floor Amendment to SB 139-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to preventing damage to underground  
utility installations.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Excavator Liability. Amend RSA 374:55 by inserting after paragraph IV the following new paragraph:

IV-a. If marked underground facilities are damaged, the excavator shall be subject to a civil penalty of up to \$500 and liable for the cost of repairs for the damage.

2 Effective Date. This act shall take effect January 1, 1992.

### AMENDED ANALYSIS

This bill subjects excavators to a civil penalty of up to \$500 and the cost of repairs for damage to any marked underground facility.

Floor Amendment Adopted.

Ordered To Third Reading.

### ANNOUNCEMENTS

SENATOR HOLLINGWORTH. (Rule #44): I would like to speak briefly what has happened in the last week with the IDA issuance with bonds and bankruptcy of EUA power. I don't know if many of

you are aware, but last week EUA Power Company filed bankruptcy. That is the same company that this state chose to give New Hampshire IDA bonds to less than 8 weeks ago. I think this is an outrageous situation, I think that this is something that should be investigated. I would like to call on the Attorney General's Office to inquire how this could possibly happen. It is clear that the bondholder for the utility, the bond counsel rather, the bond counsel for the utility was of the same person as the one for the IDA. I found this to be inappropriate. Precisely that kind of thing happening has been what has caused this bankruptcy and the state of New Hampshire to be in this situation where people who took the IDA bonds and now the creditors of this company. I hope that this Senate body will bear that in mind and will call on the Attorney General's Office to investigate how this could happen.

### **SUSPENSION OF THE RULES**

Senator Delahunty moved, that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

### **RESOLUTION**

Senator Delahunty moved, that the Senate be in recess until Thursday, March 14, 1991 at 1:00 p.m. for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings.

Adopted.

Senator Currier moved that we recess until Thursday, March 14, 1991 at 1:00 p.m.

Adopted.

### **LATE SESSION**

#### **Third Reading and Final Passage**

**SB 16-FN**, relative to the board of dental examiners.

**SB 20-FN**, establishing a committee to study the licensure of dietitians and nutritionists.

**SB 24**, relative to revising the administrative procedure act.

**SB 214-FN**, exempting specialized programs or equipment of the Christa McAuliffe Planetarium from the state's competitive bidding process.

**SB 139-FN**, relative to preventing damage to underground utility installations.

Senator Currier moved that we recess.

Adopted.

Recess.

Out of Recess.

## INTRODUCTION OF HOUSE BILLS

### First and Second Reading and Referral

**HB 118**, relative to determination of alimony where one spouse has remarried. Judiciary.

**HB 122**, relative to placing ballots directly in the ballot box. Public Affairs.

**HB 138-FN**, relative to spousal support. Judiciary.

**HB 141**, relative to limiting the mode of taking deer in Dover. Wildlife Recreation.

**HB 153-FN**, to regulate the handling of manure, agricultural compost and chemical fertilizers. Environment.

**HB 158**, relative to highway safety for riders and drivers of animals. Transportation.

**HB 162-FN**, extending the committee studying a statewide trauma care system. Executive Departments.

**HB 170-FN**, to provide immunity to the board of examiners of psychologists, its agents, investigators, and employees against civil actions resulting from disciplinary investigations and proceedings. Executive Departments.

**HB 172-FN**, relative to private lease of state railroad real estate. Transportation.

**HB 180-FN** to establish a study committee to evaluate whether a consortium of all law libraries in the greater Concord area is economically feasible and practical. Judiciary.

**HB 183-FN**, relative to the imposition of fines for securities violations. Banks.

**HB 184-FN**, relative to civil penalties for securities violations. Banks.

**HB 189**, relative to the rulemaking authority of the director of the office of securities regulation. Banks.



**HB 203-FN**, relative to the confidentiality of quality assurance records of community mental health centers. Public Institutions, Health & Human Services.

**HB 205**, restricting the method of taking freshwater smelt. Wildlife Recreation.

**HB 209-FN**, relative to conflicts between the municipal budget law and collective bargaining negotiations. Executive Departments.

**HB 210-FN**, creating a committee to study artificial impoundments. Environment.

**HB 219-FN**, establishing a committee to study the economic feasibility of utilizing vacant space at the New Hampshire hospital, including the Walker building, for certain state offices. Internal Affairs.

**HB 224-FN**, relative to new motor vehicle arbitration. Judiciary.

**HB 240**, relative to the disposition of the Kona Wildlife Management Area. Environment.

**HB 253-FN**, naming a certain segment of U.S. Route 202 the General Isaac Davis White highway. Transportation.

**HB 257**, relative to collection and reclamation of motor vehicle wastes. Environment.

**HB 271-FN**, to study the purchasing policies of the technical institute and the technical colleges. Education.

**HB 288-FN**, establishing a study committee on premature births. Public Institutions, Health & Human Services.

**HB 299-FN**, relative to the posting of statements in liquor stores and establishments selling beverages and liquors. Ways & Means.

**HB 313**, relative to conversion between mutual savings banks, cooperative banks, building and loan associations, guaranty savings banks, savings and loan associations, and commercial banks and trust companies. Banks.

**HB 319-FN**, establishing a committee on access to health care. Insurance.

**HB 327-FN**, relative to the disposal of state-owned real estate. Transportation.

**HB 330-FN**, establishing a committee to study the issue of an office of the ombudsman for children. Public Institutions, Health & Human Services.

**HB 331-FN**, establishing a legislative oversight committee on children. Public Institutions, Health & Human Services.

**HB 334-FN**, relative to the establishment of agency liquor stores. Ways & Means.

**HB 335**, relative to license plates for antique motor cars. Transportation.

**HB 339-FN**, relative to traffic signals. Transportation.

**HB 347-FN**, restricting the taking of deer in the city of Somersworth. Wildlife.

**HB 349**, relative to the charter of the New Hampshire Centennial Home for the Aged. Public Affairs.

**HB 351**, relative to personal flotation devices for sailboards. Wildlife Recreation.

**HB 362-FN**, establishing the northeast conservation law enforcement compact. Interstate Cooperation.

**HB 364-FN**, relative to the opening and closing of deer season. Wildlife Recreation.

**HB 368-FN**, naming the Parker L. Hancock building of the New Hampshire state prison. Executive Departments.

**HB 372-FN**, relative to further protection of scenic roads in municipalities and the removal of trees posing a safety hazard. Transportation.

**HB 392-FN**, relative to payment of child support. Public Institutions, Health & Human Services.

**HB 397-FN**, relative to persons afflicted with Alzheimer's disease. Public Institutions, Health & Human Services.

**HB 402**, relative to placing lime and wood ash on farmland. Environment.

**HB 409-FN-A**, establishing an industrial heritage commission and industrial heritage park fund and making an appropriation therefor. Economic Development.

**HB 414**, relative to unfair claim settlement practices. Insurance.

**HB 419**, prohibiting the use of petroleum-powered motors on Tewksbury Pond in the town of Grafton. Wildlife Recreation.

**HB 436-FN**, making the purchase, possession, and control of child pornography a misdemeanor. Judiciary.

**HB 454**, relative to safe deposit boxes. Banks.

**HB 459**, relative to notice received by the wetlands board from local conservation commissions. Environment.

**HB 460-FN**, relative to the health data advisory committee. Public Institutions, Health & Human Services.

**HB 478-FN**, relative to the emergency shelter program. Public Institutions, Health & Human Services.

**HB 484-FN**, relative to when electric companies are public utilities and affiliates of public utilities. Executive Departments.

**HB 490-FN**, relative to continuation of state health and dental insurance benefits for state employees called for active duty as a result of Operation Desert Storm. Insurance.

**HB 491-FN**, relative to the collection of the normal yield tax in unincorporated towns and unorganized places. Environmental.

**HB 502-FN-A**, relative to child care resource and referral systems and making an appropriation therefor. Public Institutions, Health & Human Services.

**HB 525-FN**, relative to appealing recounts in town elections. Public Affairs.

**HB 531-FN**, relative to personal care for the severely physically disabled. Public Institutions, Health & Human Services.

**HB 532-FN**, relative to the color of ballots used in municipal elections. Public Affairs.

**HB 544**, relative to the time for hearing appeals before the ballot law commission and relative to appointing alternate ballot law commission members. Public Affairs.

**HB 573**, relative to unauthorized insurance. Insurance.

**HB 578**, establishing an advisory committee on Governors state park in Laconia. Wildlife Recreation.

**HB 597-FN**, relative to licensing of nurses. Executive Departments.

**HB 619-FN**, relative to central business districts. Economic Development.

**HB 637-FN**, relative to insurance fraud. Insurance.

**HB 683-FN-A**, establishing a transportation task force for the twenty-first century and making an appropriation therefor. Transportation.



**HB 685-FN**, relative to fiscal notes. Internal Affairs.

**HB 696-FN**, relative to penalties for the sale and distribution of tobacco products to minors. Judiciary.

**HB 700-FN**, relative to highway planning corridors. Transportation.

**HB 703-FN**, relative to the negligent discharge of firearms. Wild-Life Recreation.

**HB 705-FN-A**, establishing the New Hampshire scenic byways planning program. Transportation.

**HB 711-FN**, extending the reporting date for the committee to study child care in public and private sector buildings. Public Institutions, Health & Human Services.

**HB 713**, relative to the general counsel of the public utilities commission. Executive Departments.

**HB 722-FN**, relative to the control and regulation of billboards and other advertising devices and establishing an outdoor advertising study committee. Transportation.

**HB 761-FN**, relative to leasing certain state land. Executive Departments.

**HB 768-FN**, relative to technical changes in the unemployment compensation law and to changes in the maximum weekly benefits. Insurance.

**HCR 2**, urging Congress to propose a constitutional amendment requiring a balanced federal budget. Internal Affairs.

**HCR 7**, adopting a bill of rights for children. Judiciary.

**HCR 8**, urging Channel 8 (WMTW) of Auburn, Maine to provide coverage of New Hampshire news and events to allow another television channel providing such coverage to broadcast from the Mt. Washington summit. Public Affairs.

**CACR 7**, relating to the incompatibility of holding a state office and being called up for temporary military active duty. Internal Affairs.

### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until March, 14, 1991 at 1:00.

Adopted.

### LATE SESSION

Senator Currier moved to adjourn.

Adopted.

Adjournment.

*March 14, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, send us the Luck of the Irish - as we celebrate the coming St. Patrick's Day! Despite his hardship he was able to Set Them Free! Good Luck and Erin go Bragh!!* Amen.

Senator Russman led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

## ANNOUNCEMENTS

## COMMITTEE REPORTS

**SB 11-A**, an act appropriating funds for a new courthouse in Rockingham County. Capital Budget committee. Ought To Pass With Amendment. Senator Hough for the committee.

SENATOR HOUGH: The Capital Budget committee is bringing SB 11-A forward, relative to the new courthouse in Rockingham County. This project appears here and it also appears in the so called fast track Capital Budget, that we're continuing to work on and it appears in the Governor's Capital Budget message. The point is, there is an agreement on this one issue and we want to bring this forward. The numbers in the amendment are identical to what they are in other documents. We feel that it is most important that we move forward on this piece and bring it over to the House so that we can work with our colleagues on the other side of the law, wall. I stand corrected, the committee recommendation is Ought to Pass with Amendment and the amendment is on page 13.

## Amendment to SB 11-A

Amend the bill by replacing all after the enacting clause with the following:

1 Appropriation; Department of Administrative Services. The sum of \$11,165,000 is appropriated to the department of administrative services for the biennium ending June 30, 1993, for land acquisition, design, construction, and furnishings of a new superior court in Rockingham county.

2 Bonding Authorization. To provide funds for the project in section 1 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state in a sum not exceeding \$11,165,000 and

for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A.

3 Payments. The payment of principal and interest on bonds and notes issued for the project in section 1 shall be made from the general fund.

4 Appropriation; Supreme Court. Amend 1989, 367:19 to read as follows:

367:19 Appropriation; Supreme Court. The sum of \$396,000 is appropriated to the supreme court for the preparation of preliminary design and final design and construction documents for a new facility for the Rockingham county superior and probate courts. [Design of the project shall be done utilizing the generic plans developed for the Hillsborough county courthouse at Nashua.] Design of this project shall be done in such a way as to allow for construction to be done in stages. Preliminary design documents must receive the approval of the capital budget overview committee, prior to the preparation of final design and construction documents. This appropriation shall be a charge against the court facilities escrow account established pursuant to RSA 490:26-c.

5 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill makes an appropriation to the department of administrative services for land acquisition, design, construction and furnishings of a new superior court in Rockingham county.

The bill removes a requirement currently in the law regarding the design of this superior court facility.

Amendment Adopted.

Ordered To Third Reading.

**SB 14-A**, an act relative to environmental and engineering studies and acquisition of rights-of-way for the construction of a truck lane on United States Route 2 in Jefferson, New Hampshire, and making an appropriation therefor. Capital Budget committee. Ought To Pass. Senator Oleson for the committee.

SENATOR OLESON: SB 14-A is a bill which will raise a \$500,000. \$300,000 for land acquisition, and \$200,000 for planning. Originally, the first bill called for an expenditure of some 2.8 million dollars. However, in the wisdom of the committee and in the financial difficulty that we might have at the present time, this came into the Senate some time ago to be amended asking for \$500,000. As I said before, Mr. President, three for land acquisition and two for planning. It passed the Senate and went to the Capital Budget where it



was approved unanimously, and now it's back again on the Senate floor for final passage, which I hope this body will do. Thank you.

Adopted.

Ordered To Third Reading.

**SB 67-FN**, an act relative to establishing a study committee to study the feasibility of revising the school building aid formula. Education committee. Ought To Pass With Amendment. Senator Hough for the committee.

**SENATOR HOUGH:** The committee on Education reports SB 67-FN with Ought to Pass with Amendment. And the amendment is on page 13 and 14. The amendment simply has to do with the composition of the study committee and the changes that a public member appointed by the Governor, has been added. This subject has been before us in past sessions in various configurations. Clearly school building aid and the states support of local school facilities is a subject of annual concern. There are problems with the present way in which we address this subject and there have been considerations that have been brought forth that would address caps, if you will, and there have been other considerations relative to the bonded indebtedness of the local communities. We feel that after the session ends that once again members of the legislature and a public member should address this subject. It is a subject that will not go away from us. Our present mechanism, our present means is not necessarily the best way of handling school building aid and we would hope that we would come together and identify exactly what it is we are doing, what we want to do, and explore other options out in the future.

**SENATOR ROBERGE:** I'm concerned about this bill. We have studied this issue many, many times and I am very, very concerned that this is going to drive another tax. For that reason I want to explain why I want to vote against this bill.

#### **Amendment to SB 67-FN**

Amend the bill by replacing section 1 with the following:

1 Study Committee Established. There is hereby established a study committee on school building aid to study the feasibility of revising the school building aid formula, including determining how to best deal with the issue of revising the school building aid formula. The committee shall consist of not more than 3 members of the Senate, appointed by the President of the Senate, not more than 3 members of the House, appointed by the Speaker of the House, the state treasurer or his designee, and a member of the public, ap-

pointed by the governor. The committee members shall choose a chair from among its membership and shall meet at the call of the chair. The committee shall report its findings and recommendations to the President of the Senate and the Speaker of the House on or before November 1, 1991.

### AMENDED ANALYSIS

This bill establishes a study committee to study the feasibility of revising the school building aid formula. The committee shall report its findings and recommendations to the Senate President and the Speaker of the House on or before November 1, 1991.

Amendment Adopted.

Ordered To Third Reading.

Senator Roberge in opposition to SB 67-FN.

**SB 89**, an act relative to cooperative school district planning committees. Education committee. Ought To Pass With Amendment. Senator Heath for the committee.

**SENATOR HEATH:** Thank you. Essentially this is a housekeeping bill that adds cities to towns in terms of forming cooperatives. It really is aimed at helping Berlin have some choice up there. I would urge your passage.

### Amendment to SB 89

Amend the title of the bill by replacing it with the following:

### AN ACT

relative to school district planning committees.

Amend RSA 195:18, XI as inserted by section 1 of the bill by replacing it with the following:

XI. Notwithstanding the provisions of paragraphs I-X or any other law to the contrary, no single school district that includes a city shall be prohibited from participating in a school district planning committee.

### AMENDED ANALYSIS

This bill allows a single school district which includes a city to participate in a school district planning committee.

Amendment Adopted.

Ordered To Third Reading.

**SB 99**, an act establishing a committee to study how the state of New Hampshire operates and finances public education. Education committee. Inexpedient To Legislate. Senator Disnard for the committee.

**SENATOR DISNARD:** The Education committee strongly, unanimously recommends Inexpedient to Legislate. The reason being, there are cases being instituted in the state courts which addressed this question and there are a lot of legislative bills in the hopper that also address the question. So we feel that it is inappropriate so it should be recommended as Inexpedient to Legislate.

**SENATOR W. KING:** Senator Disnard, I just wanted to make sure that the Senate understands the position of the committee here. You don't believe that it is an unreasonable thing to do to take a look at studying, to take a look at the way in which we finance public education in the state of New Hampshire, you just feel that that issue is being addressed in other bills and also by the court?

**SENATOR DISNARD:** I can't speak for the committee, but I strongly believe in what you say. It's not addressing that we are against: methods, or increased methods, or other methods of means of supporting education, which is just addressing this particular issue.

Committee Report Adopted.

Recess

Out of Recess

**SENATOR HOUGH:** I would request that the reports on the bill relative to choice in education be delayed until the return of Senator Fraser. Senator Fraser has a commitment that he has to be at this point in time. He will soon be returning to the chambers and as a courtesy and consistent with the traditions of the Senate I would request that we take those up on Senator Fraser's return.

**SENATOR HEATH:** Senator Hough, are you going to delay it until Senator McLane comes back?

**SENATOR HOUGH:** I spoke with Senator Fraser, and he expressed an interest in these bills and not only that, an interest of the communities in his district indicated that he would be away at this hour, but would be returning. As far as Senator McLane is concerned, I have not spoken with her on these issues nor I am sure that she was aware that they would be on the Calendar. I wouldn't attempt to speak on behalf of Senator McLane, but Senator Heath, you recognize that this body is always extended courtesies to members in situ-



ations such as this and clearly we are going to address these subjects this afternoon, and I see where waiting an hour for a colleague to return will not materially effect the outcome.

SENATOR DUPONT: If I could respond to that, Senator McLane gave me a list of legislation that she was concerned about and these bills were not on the list.

SENATOR HEATH: I was not suggesting that we not observe the courtesy, I wanted to clarify the parameters.

**SB 110-FN**, an act relative to protection of first amendment rights of students. Education committee. Inexpedient To Legislate. Senator Humphrey for the committee.

SENATOR HUMPHREY: I was prepared for 103, I'm not prepared for this. If Senator's would bear with me for just a moment, I defer to the Chairman, Mr. President.

SENATOR DISNARD: The committee recommends on SB 110, Inexpedient to Legislate. Some members of the committee felt that there were already rules and regulations and the statutes and actions by the court that this bill was not needed.

### SUBSTITUTE MOTION

Senator Cohen moved to substitute Ought To Pass for Inexpedient To Legislate.

SENATOR COHEN: The timing of this bill couldn't be more appropriate as we prepare to celebrate the return of our victorious soldiers from the war in the Gulf. I think it is absolutely right that we consider what it is our military is there to defend. That is of course our freedom, and our liberty. 1991, as some of you already know is the two hundredth anniversary of the Bill of Rights. This is now exactly the right time to send the message to our future leaders, students that are now in high school, that freedom as defined by the Constitution is alive and well. SB 110 reminds students that they also have rights which are protected. The bill was drafted carefully to recognize that our public schools do have a right and a responsibility to regulate student expression in student newspapers and to make those regulations regarding obscenities, slander or libel, or any statement which advocates lawbreaking. This bill specifically states that the school does have a right and a responsibility to regulate such unacceptable speech. But when it comes to articles in student newspapers for which an administrator may disagree or deem to simply be in bad taste, that authority stops precisely where the students' rights begin. This bill protects students' rights to free

speech. If a student newspaper or expression is controversial the rights of that student or newspaper must be guaranteed or making sure to protect the rights of the school to maintain an orderly environment. This bill also aims to make sure students do not surrender their rights as Americans when they step onto school property. Passage of this bill and protection of the first amendment rights is a very important and crucial lesson in civics. Passage would send a message that freedom is something very real. That freedom is something that must be exercised and the constitution is a living document not ancient parchment preserved under glass. It applies to us all today and in the future and it sends a message that each of us, including high school students, has a right to express his or her views whether or not they are popular views. We can not expect students to understand and defend freedom if we muzzle them everytime they try to exercise their rights. Censorship for expressing unpopular views sends precisely the wrong message to our young people. If students rights are not protected young people may simply dismiss the principles in our Bill of Rights. Many fail to understand exactly what it is our military defends. This is the 'live free or die' state and we are talking about freedom here, this is the bicentennial of the Bill of Rights. We need to send a message to students that freedom is real and it is worth fighting for, I therefor urge Ought to Pass.

SENATOR HEATH: Senator Cohen, you mentioned this is a bicentennial of the Bill of Rights. Do you think the bill of rights, by putting into legislation allowing children's schools to have it, is a good idea?

SENATOR COHEN: Yes.

SENATOR HEATH: This speaks of the first amendment, how about the fifth amendment? You thought I was going to ask about the second? The right not to testify against yourself, do you think that should be extended to them?

SENATOR COHEN: If you could remind me again about the fifth, I focused on the first on this one.

SENATOR HEATH: The fifth has a number of things and including the taking of property, but the part that I am specifically thinking of is the prohibition about being compelled to testify against yourself.

SENATOR COHEN: I would imagine so, of course, yes.

SENATOR HEATH: So you would you support adding the second, third, forth, fifth, sixth, seventh, eighth?

SENATOR COHEN: This is specifically in regard to the first amendment rights.



SENATOR HEATH: But my question is would you support an amendment along that line?

SENATOR COHEN: This particular bill is looking at the first amendment rights and we will consider that at another time.

SENATOR HUMPHREY: If this bill becomes law, will public schools officials have more or less say about materials distributed within the schools?

SENATOR COHEN: This bill specifically talks about materials created within the school, under schools jurisdiction.

SENATOR HUMPHREY: I will rephrase the question if I may. Under this bill, if it would become law, would public school administrators have more or less to say about materials produced in the schools?

SENATOR COHEN: They would have. The school administrator, faculty member who is the advisor to the newspaper would still have say over what gets printed to make sure that there isn't slander or libel or a call for unlawful acts.

SENATOR HUMPHREY: Mr President, Senator Cohen has expressed very elegantly the cherished tradition of the first amendment and the rights which accorded us under that amendment. I think it is important to balance against that the fact that we are talking about public schools that deal with minors and that the importance that the school officials be able to maintain order and some sense of control in the environment. The first objective is education and that requires a certain environment and I don't know of any significant problem that this bill needs to relieve. I think where problems occasionally arise and are being dealt with successfully on a local basis, I do not know that we need a sweeping new law that takes away from public school administrators some of the authority that they now have in the matter of the materials produced within their schools. Therefore, I intend to vote against it.

SENATOR COLANTUONO: Could we hear from the committee as to their rationale for recommending Inexpedient?

SENATOR DISNARD: I was one of those who voted in the minority in the committee and I can reiterate what they said. But it really wouldn't be fair if they do not wish to speak, I will reiterate what they said as long as these Senators understand I'm not speaking for myself, I'm speaking for the majority of the committee. Perhaps there are three Senators here and one of them is volunteering to speak for the majority with permission of the Chair and Senator Colantuono?



SENATOR JOHN KING: As an old school teacher I guess I really thought it was covered in the first amendment, all the amendments he got in the bill of rights. I also thought that one of the real reasons to have it, they already have the rights to do as they wish or they have courts, they have the school board, they have all these other places that they can go. Therefore I voted against it. Inexpedient.

SENATOR COLANTUONO: Senator J. King, As a former school teacher, under this bill, would a first grader be able to go up to their teacher in the middle of class and tell them basically, to go to hell?

SENATOR J. KING: They could do it, but what would happen afterwards would probably be something different.

SENATOR DISNARD: Senator Cohen, would you believe that section 4, of the first page would benefit the school administrators because then the school would be adopting rules. Then all the staff would know what rules that they could follow and what rules they should not in order to make it easier for everyone involved. Plus, the students and their parents would be well aware of the guidelines that are developed at a local school level.

SENATOR COHEN: Yes I would believe that, thank you.

Ought To Pass Motion Adopted.

Ordered To Third Reading.

**SB 103-FN** an act relative to parental choice in education. Judiciary committee. No Recommendation. Senator Disnard for the committee.

### SUBSTITUTE MOTION

Senator Humphrey moved Ought To Pass.

SENATOR HUMPHREY: Mr. President, I would like to address the bill first, then offer the amendment. Obviously there is a great deal of interest in this bill on both sides of the question. The hearing lasted about three hours. If it matters to anyone there were more proponents than opponents. But I am not suggesting that ought to be dispositive, but I did listen and sat through the entire three hours listening to the witnesses. Particularly, those who were opposed to the bill and making notes of what seemed to me to be the valid objections. I agreed in criticisms, I agreed with some of those who criticized. As a consequence of those criticisms and listening to them, I have prepared an amendment in accordance with the rules which I will ask the Senate to consider at the appropriate time. The amendment makes a number of changes in the bill to make the bill more

palatable, I hope, to the critics. And, however Senators may intend to vote or ultimately do vote, on final passage I hope they will support the amendment. First of all the amendment does these three things, first the amendment makes clear, again this is in response to the critics.

Recess.

Out of Recess.

SENATOR HUMPHREY: Mr. President, however Senators may be disposed to the bill itself if they would support the amendment because the amendment is intended to address the legitimate concerns of some of the critics. First of all the amendment makes clear that vouchers are not to be applied in anyway to religious instruction or religious exercises. Further, and secondly, the amendment makes clear that participating schools must comply with all state and federal nondiscrimination statutes. Let me just say with respect to both of those points, that I think the amendment is redundant, frankly. Because if the vouchers were applied to religious purposes, there would be successful suit against that practice. Likewise, with regard to existing discrimination statutes at both the state and the federal level. But nonetheless to be explicit, I proposed to amend the bill to include those provisions. There was one other technical correction embodied in the amendment. In the original bill I used the phrase state accreditational schools. The term of art used in statute in schools approved for attendance by the state, and so this amendment makes that technical change in the bill.

Mr. President, I want to begin by addressing our liberal brethren in the Senate, or perhaps I should say progressive. There is a new lexicon nowadays, and right-wingers, and their moderates, and there are progressive. So I will use the term progressive. The bill before us embodies an idea we can all embrace irrespective of where we may be on the political spectrum, mainly choice in education. Colleagues, this is a brand new book or brand new last summer, called the Politics, Markets and America's Schools. It forms the basis of the bill before us. I cite this book because it is published by the Brookings Institution, Senator Hough might want to verify that. Which Time Magazine, in reviewing this book says 'this influential book bears the imprimatur of the Brookings Institution. Washington's leading liberal think tank so the ideas on which this bill are based are ideas that are shared not only by conservatives, but by certified liberals in the eyes of Time Magazine. The book is entitled Politics, Markets and America's Schools. The authors of the book are Denizens of Academia. John Chubb, one of the authors, is a senior fellow in education at Brookings; the other author, Terry Moe, is



Professor of Political Science at Stanford University. This new book endorses choice in education for both public and private schools. So I say to my colleagues, liberals, conservatives, or progressives as you wish, or whatever label you care to wear, here is something that we all truly can embrace, and should. In so doing, we'll begin joining in with the bulk of the American people who support choice in education. A Gallup poll survey done last year revealed that Americans support choice in education by 62 to 31. That is exactly a two to one majority. Here is a good idea therefore that is not only good policy, but good politics. That lovely marriage that we all seek after, good policy and good politics. And let me cite just a few of the key findings of the authors. This first one, will blow away or should, all of the cherished dogma of the public education establishment. These are the words of Chubb and Moe, "All things being equal, schools that are more successful in promoting student achievement do not have higher per pupil expenditures, higher teacher salaries, smaller classes, tougher graduation requirements, or heavier homework loads". They say that their findings are that effective schools are distinguished not by those things, but primarily by their organizations. Finally all things being equal, private schools have more effective organization than public schools. The reason is not that they have special students or special parents, but rather that the process of competition and choice, discourage bureaucratization and promote school autonomy. Well that is pretty strong language and to most, I'm sorry to say, to most in the education establishment that is heresy, but remember these are not the findings of Senator Humphrey, or Ronald Reagan, or Bill Bennett: these are the findings of Chubb and Moe, as published by the Brookings Institution. They base these findings on a federally funded study or a study that was part federally funded involving the testing of 20,000 10th graders in 1,000 public and private schools across the country in the areas of reading, writing, vocabulary, math, and science. The study also involved interviews with principals, and teachers, and students, nationwide. On the basis of these findings what do Chubb and Moe recommend? Choice in education. That is the message of this book right out of the Brookings Institution. Choice in education, including private schools, not just choice among public schools, but choice among public and private schools. So let me quote John Chubb, "If schools are to improve, they must be given the freedom and incentives to organize more effectively. The topdown management of today's public school administration needs to be replaced with some genuine bottom up control. Let the people who are in the best position to know what is good for students — parents, teachers, and principals — make the key decisions. Let competition hold them accountable. Ladies and gentlemen of the Senate, there is a ground



swell of support building for choice in education. President Bush put it well in an address just a few days ago, "choice," he said, "is a catalyst for change, the fundamental reform that drives forward all of the others". Well we need responsive customer-driven schools in New Hampshire. In greetings to a parents group in Milwaukee last year, President Bush observed where choice has been introduced, everyone benefits: students, parents, teachers, and members of the community at large. President Bush has backed up his words with action; he has created a new center for choice in the Department of Education. He has requested \$200,000,000 in the fiscal year '92 budget for grants to school districts that offer school choice programs. Why not pass this bill so our school districts, if they choose, can qualify for some of that \$200,000,000. There is one catch to President Bush's proposal: the grants are available only to those choice programs that include private as well as public schools. We need choice in education. Here's why. Listen to this and try to guess who said it. Ninety-five percent of the kids who go to college in the United States, 95 percent would not be admitted to college anywhere else in the world. Who said that? It was not Ronald Reagan, it was not Bill Bennett, it was not Gordon Humphrey. It was none other than Albert Shanker, the President of the American Federation of Teachers when he addressed the annual meeting of that organization last summer, in Boston. The United States spends more money on schools than just about any developed country in the world. Yet, Albert Shanker says that 95 percent of college students wouldn't be admitted to any other college anywhere else in the world. Horror stories abound about young people who can't read, can't write, can't express themselves, can't find jobs or if they do they require education by their employer's. Now with this juncture, Mr. President, I want to say something about our teachers. I know something about teachers, because I am married to a teacher and they are wonderful people. The mess in our schools is not their fault. It is the fault of the structure, it's the organization. Chubb and Moe point out the effective schools are distinguished by their organizations. They observe that private schools have more effective organizations. They observe that choice discourages the bureaucratization that plagues our public schools. I also want to pay tribute, Mr. President, to the Chairman of our Education committee, Senator Disnard. He has introduced a bill which I wholeheartedly support. Perhaps it is on the calendar, is it today, the SAU bill? Oh, that was last week. It was on last weeks' calendar and may it become law, it went to finance. It's in the imperial court. He has introduced a bill to study the SAU structure in this state. A bill and a study that are very badly needed indeed, so I commend Senator Disnard for that effort. But even if that reforms or succeeds or even study or leads to

successful reforms, it will not be enough because only changing the structure by providing for choice will bring about real reform. Let me explain the bill really briefly. SB 103 provides that each school district may elect to issue vouchers, may elect that at the annual school district meeting. It's optional. There is no mandate — this is the last Senator who would mandate such a thing. Each participating school district will decide the value of its vouchers and that is a matter that relates to the cost of the towns. Obviously, they could put a value of one cent on a voucher or \$1,000,000, it's totally up to them and fiscal impact is something that they will be able to decide for themselves. The voucher is not to be given to schools — it is to be given to parents, to be used to pay education expenses at any participating public or private school including religiously affiliated schools and home study schools. Any school may participate that is approved for attendance purposes by the state. I emphasize the word may at that end of the deal. No school has to participate, schools may participate if they choose to do so. There is no coercion of any kind in this bill. There is in this bill the prospect of substantial cost reductions to our towns and to our school districts. If over time, substantial numbers of school children go off the public school rolls, according to the Department of Education it now cost very close within \$20,000,000 of \$5,000 per pupil per year to educate our children in public school. Typically, these small, modest private schools that have sprung up around the state, obviously, I am not talking about St. Paul's, which is a typical, a wonderful school — may it ever be so. That is not what we are talking about. We are talking about these small, modest private schools that have sprung up. Typically, there tuition, or the expense of education in these schools are \$2,000 or less, contrast that \$5,000 verses \$2,000. The customers of those schools feel that these schools do a better job. So the point is that not with the first student surely, but over time if this bill promotes the choice among parents who take their children off the rolls of public schools and send them elsewhere. Over time this bill offers the school districts and the towns and the property taxpayers the prospect of substantial cost savings. Now on the subject of dollars, let me address the preposterous fiscal note attached to this bill submitted by the Department of Education. The Department notes that it cost school districts nearly \$5,000 per year per student. Then the department, seeking obviously, to put this bill in the worst possible light, then the department assumes that school districts will value their vouchers at \$5,000 or something very close to it. That's a ridiculous assumption. If the purpose is to encourage choice and not only choice of less expensive modes of education, why are school districts going to value their vouchers at \$5,000? School districts and towns are frugal. They are going to value them at something much less.



When private schools typically cost \$2,000, to suggest that towns are going to issue vouchers worth \$5,000 is just plain silly, to put it mildly. In any event, the point to remember is that this bill simply authorizes towns to issue vouchers. Chances are that very few will do so in the first year. Chances are if they do choose to participate will make their vouchers worth maybe \$1,000 or \$1,500. But the point is, that is their choice to make. And so what will happen is that there will be a change but a very gradual change in our system. Not every town is going to elect vouchers the first year or even the second year. In fact, just a few will try it. They will make them worth rather little money. So whatever changes are brought in the first and the second years will be gradual, we are not calling for a wholesale change, we are not calling for the destruction of the public school system by any means. Finally, Mr. President, let me anticipate the objection that has already been raised by the public school community, public school establishment that the bill is unconstitutional. That is a serious charge, it is an important charge, and I want to try to rebut it as carefully as I can. First of all, I think that everyone agrees that is perfectly constitutional with respect to the federal and state constitutions to provide this assistance to secular public schools. That is to say, provide vouchers to parents who may choose to send their children to secular private schools. The claim of unconstitutionality only arises in connection with the use of vouchers by parents who choose to send their children to religiously affiliated schools. First let me address the New Hampshire Constitution. The bill is consistent with the New Hampshire Constitution, the key words from the state constitution are the words 'support and use.' In the case of those vouchers which were placed in the hands of their parents ultimately choose to employ them to purchase education for their children at religiously affiliated schools — such vouchers are not issued to provide support of religious affiliated schools. Neither are vouchers issued for the use of religious affiliated schools. The vouchers are issued for the use of the parents in making the choice that relieves the school district of it's obligation to furnish a public school education to the children of such parents. The vouchers are issued to enable the school district to discharge it's obligations through a private school. In other words the private school is performing a public service and a public good. And now for the federal constitution, the claim will be made that the amendment violates, that the bill violates, the establishment clause of the first amendment, because parents may apply vouchers to the cost of education and religiously affiliated private schools. The claim is invalid. Let's remember that the GI bill can be used to attend religiously affiliated colleges. That Pell grants can be likewise used, that guaranteed student loans can be likewise used. And at the local level let us not



forget that the towns can grant tax exemptions to religious institutions and schools. None of those acts are unconstitutional and neither is this bill. As the lawyers in the Senate, no the Supreme Court in *Lemon vs. Kurtzman* has set up three tests which legislation must pass to be constitutional. First, legislation must serve a secular purpose. This bill serves such a secular purpose — it promotes the states' interest in well educated citizenry. Second, the primary affect of legislation must neither advance nor inhibit religion. This bill makes clear that vouchers may not be applied to religious instruction or religious exercises. There is no religious purpose to this bill. The purpose is secular — to educate our children. Third, legislation must not foster an excessive entanglement between government and religion, — this bill does not. It doesn't place the vouchers in the hands of religious affiliated schools, it places the vouchers in the hands of parents, who at their discretion, may use the voucher at a secular school, or religiously affiliated school, or at another public school that is participating, so there is no bias built into this bill with respect to the choice that a parent might make. I am not going to claim, Mr. President, that constitutional arguments are airtight or that the constitution or constitutionality of laws is always perfectly certain. If things were that clear-cut we would not have all of these five to four decisions at the Supreme Court where the very best in legal minds gather. If any Senator has real questions about the constitutionality of this bill, even after my brilliant presentation, let the Senator pass that question on to the proper form. Who can doubt that if this becomes law the NEA will race it right to the nearest court and file a suit. We can be darn sure that this is going to be in court, that the argument will be raised, though I do not think it has substance. It will be raised, there will be a suit, if the courts in their proper role will decide the question ultimately. Mr. President, it is time for some change in our education structure. Last year alone nine other states enacted choice in education statute. The American people overwhelmingly support choice. We desperately need choice in education to spur excellence. The bill mandates nothing, school districts do not have to do a thing, no one is required to do anything, the bill only provides an option. It will yield only gradual changes. The bill is constitutional, I urge my colleagues to support it. Well, let me give the final word to John Chubb, Co-Author of the book, "with a overwhelming majority of the public supporting educational choice it seems to me the education establishment which opposes choice, but professes to support the concept of democratic schooling, ought to get on this side of the majority and stop their stubborn resistance to educational choice."

SENATOR FRASER: Senator Humphrey, both in the amendment and in the body of the original bill 194-61 section, the program should provide a pupil in a elementary or a secondary school the opportunity to elect to attend a public school or other. If I read this bill correctly, you're allowing — even though this program starts in the kindergarten and goes through the high school — you're allowing the student to make that determination?

SENATOR HUMPHREY: No, that certainly is not the intent Senator, and let me say also with regard to kindergarten: provides for application kindergarten only in those towns that kindergarten is provided, school district, I should say. But that is clearly a drafting error which I overlooked, and the clear intent is not to give the first graders or second graders vouchers. But rather to give parents vouchers so that they can decide where to educate that first or second grader or whatever the case may be.

SENATOR ROBERGE: Senator Humphrey, would you believe that I am going to vote for this bill because I believe that it will create quality education at lower cost through competition.

SENATOR HUMPHREY: That is a reasonable assumption and I could find that possible, yes.

SENATOR HOUGH: I rise in opposition to Senator Humphrey's motion of Ought to Pass. I would compliment my colleague Senator Humphrey, on his very sophisticated and erudite presentation. I know of his sincerity in this subject, but this situation reminds me somewhat of the setting in Thomas Hardy's novel, "Return Of The Native", and while Senator Humphrey went forth into the broad western world and visits with the Brookings Institute, reads books authored by Moe & Larry, I would tell you I would have been laboring here in New Hampshire's vineyard for the last twenty years. And though I am a product of private preparatory schools and private colleges, I am absolutely convinced, that what is unique about New Hampshire, and though I might think and I suppose that makes me progressive, and that we do not commit enough of our resources towards support of public education. I'm reminded what my good friend Governor Peterson often tells me. Governor Peterson's guidances always have been to think of a good society. And when he refers to a good society he starts off with saying, "a good society is a society which keeps the brew cool in the summer, the old folks warm in the winter", if we in the New Hampshire tradition start from that basis and understand that we have limited resources and the resources that drive our public education are generated at the local level. We don't have to get into the argument of the equity of property taxes for this discussion, but it is local parents and local



citizens who are doing their very best, taxing themselves to the utmost to provide an education for all youngsters in these small New Hampshire towns so that when they leave their education, we will have a good society. Subject of choice in education is intriguing, appealing, personally, selfishly I could entertain that suggestion and I would explore what options might be available to me and to my children. I am also concerned that we still have to maintain education and institutions at the local level. That can address the needs and provide an opportunity for all children. I would suggest to you as a New Hampshire citizen legislator and perhaps having more in common with my colleagues than others, that it is within the New Hampshire tradition not to support this, but continue on as we have continued for 200 years. Were we to make the commitments in terms of resources at state government that would find us less than 50th in the union. We could revisit this subject. But are we not kidding ourselves, were we to go forward, we would find an erosion of that which we have worked so hard to put in place. Four years ago I went to another school teacher, his name was John Sununu, and I said Governor, I want to make a proposition to you, there is a very serious problem in the local communities and the local schools. We are finding that a number of youngsters are not succeeding because of reading problems. I said to the Governor, "I've got a proposition that I think I can bring you to support", it was a very insignificant minor appropriation by the Department of Education, that annotated a Reading Recovery Program, and through that effort and the support and the encouragement not only of Senator Disnard, and a number of people in this body and across the wall, but also with the support of Governor Sununu. We put in place model legislation that has allowed for a very significant tool to be placed in the local communities to address an education problem. It has been recognized nationally. I do not take pride in authorship, but I am damn proud that I was the politician if you will, that brought this forward. Senator Disnard could tell you as a person who has spent his lifelong career committed to public education at the local level, how significant this minor little effort was in effecting good quality education. Senator Disnard is the respected Chair of the Senate Education Committee, he will be rising and he will address the questions relative to some of Senator Humphrey's very well thought out and presented testimony. We should pay close heed to the wisdom of our chair of education. My remarks are from the gut instincts that I have from being an experienced, long term New Hampshire Legislator. I will not challenge Senator Humphrey's material or his presentation, but like all issues worthy of public debate and this policymaking body, I have come to a conclusion different than Senator Humphrey's motion of ought to pass.



SENATOR DISNARD: I am sorry the prime sponsor of this bill is not here. I understand SB 103 and I understand SB 131, perhaps as well as anyone in this room. I understand both sides of the question as many years I have been involved. I agree with Senator Humphrey that the methodology of the fiscal report from the Department of Education is not realistic and it is outrageous to try to convince someone from that viewpoint. I am not quite sure how I would vote on this bill if it was not for a constitutional question and I will call your attention and I respectfully understand what Senator Humphrey was saying. I am concerned with article 83 of the constitution and quote, "that no money raised by taxation shall be granted or applied for the use of schools or institutions of any religious sect or denomination", also, I would like to have you, if you have an opportunity to refer to an opinion of the Supreme Court Justices of this state in 1969, they were asked specifically regarding proposed legislation which would permit a \$50 tax exemption on residential real estate of any person of having one or more children attending a nonpublic school and then it goes on. Their answer has raised doubts in my mind about the constitutionality of this particular question. That's why before I read this I will indicate I would be more interested in the two suits being submitted in Epsom regarding the constitutionality. I am quoting from the Supreme Court opinion, "in our opinion SB 319, permitting a \$50 tax exemption on residential real estate to be granted to persons having one or more children attending a nonpublic school would produce an unconstitutional discrimination." I will continue to quote, "It would make available to the parents funds which they could contribute directly to the nonpublic schools" and therefore, I submit, in my strong opinion, I would like to see some court action rather than these opinions. Because I strongly pay attention to the Supreme Court opinion, I want you to understand an opinion not a court decision.

SENATOR HEATH: Senator, are you familiar with the Governor's scholarship program?

SENATOR DISNARD: The Governor's scholarship program, yes.

SENATOR HEATH: Do you believe that that is in violation of the constitution?

SENATOR DISNARD: I am not quite sure if it is after I read this.

SENATOR HEATH: I guess I would like you to further elaborate why that isn't a parallel situation?

SENATOR DISNARD: I am concerned now after reading this opinion, exactly what we can do and what we can not do to enhance education in this state. In this opinion of the Supreme Court of

Court Justices, they address the secular education of parochial schools, they also address other issues. So that has raised doubts in my mind about many of the things we do in this state to enhance education in the school. However, Senator Heath, I wish to have you understand, that I support nonpublic schools, and I appreciate nonpublic schools, and I respect nonpublic schools, I do not wish for you or anyone else to interpret my opinion on reading this, is against any of those institutions.

SENATOR W. KING: Senator Disnard, do you know how many children you have in your area who go to private schools currently?

SENATOR DISNARD: I am a member of the Catholic faith and if I go on that particular, St. Mary's parochial school, there is 165 to 168 students and we have a strong Christian academy which is a good Christian academy with good teachers, strong ideals, and American precepts, American traditions. I am not sure how many of our students within our community attend.

SENATOR W. KING: Is it fair to say though, let's just take the 165 children for an example. If you go based on what Senator Humphrey gave as his conservative estimate of \$1,000 for a voucher that the net result of that if no child left the public school system in Claremont, then the net result would be \$165,000 cost to the town of Claremont and to the property taxpayers in Claremont?

SENATOR DISNARD: Won't you just ask me pertaining to one particular school it could be a minimum of that plus, the students who attend the Christian academy. But also I am concerned about wording in here, and I am glad you asked it, because I did not put you up to it. I am glad you asked it because I am concerned about the word home schooling because that could add up to another \$1,000 per pupil and I was the prime sponsor of the home schooling last year and I fought for it. At that time it was suggested home schooling would not be involved in type of voucher programs so then, that has nothing to do with my constitutional question. I am answering your question.

SENATOR HUMPHREY: Senator King, you are aware, or are you not, that Claremont like other towns is not mandated by this bill to participate and should Claremont choose like other towns perfectly free to value its voucher as it may and Claremont like other towns is going to be very careful in evaluating this proposal and will project the cost and it is not, Claremont like other towns is not going to do anything irrational.

SENATOR W. KING: Senator Humphrey, I am aware that this is not a mandatory program. However, I think that it is also important to recognize that in these troubled economic times in the state of



New Hampshire, citizens are grasping at every possible way that they can to reduce their property taxes. This is a false hope in many ways. In fact the arguments that have been put forth in the Epsom case demonstrate that there are many people who think that this is going to create property tax relief when in fact most likely, at least in the first years of the project, it is going to create great burden on property taxes.

SENATOR HUMPHREY: Senator Disnard, I think there is a lot of interest in this bill. Senator Disnard, you raised constitutional concerns: those are legitimate concerns and they are great concerns. But the 1969 decision to which the Senator referred, is now 21 years old, is it not? And both the federal and the national levels has evolved in the last 21 years, has it not?

SENATOR DISNARD: Yes, Senator, but I also believe that perhaps you should table this bill or put this to study to find out what the courts, the highest courts of this state, would suggest. Then you might have more support than you do now.

SENATOR HUMPHREY: Would Senator Disnard, let us take an unreasonable hypothesis: Senator Disnard is charged with some civil crime, would the Senator care to have his case come up without lawyers being present to argue his case?

SENATOR DISNARD: No.

SENATOR HUMPHREY: Is the Senator aware that if a bill sent to the Supreme Court for an opinion, lawyers are not permitted to argue the case, that is all decided on the basis of legal briefs?

SENATOR DISNARD: I am not that familiar, but however, I do have full faith in our Supreme Court Justices and believe they, with their legal backgrounds, that they could make a good decision, whether I agree with the decision or not.

SENATOR HUMPHREY: I hope the Senator understands my concern, the better way to get the case decided is to pass the bill. Let the inevitable suits come and send it to the courts accompanied by lawyers on both sides and let the best legal minds argue the cases and let the judges decide on that basis?

SENATOR SHAHEEN: Thank you. First of all Senator Humphrey, I would say I am one Senator who would not care to wear a label. And that I suggest that most of us here really are liberal on some issues and conservative on others and so trying to categorize all of us, it really is not very appropriate. Secondly, I would like to correct the statement that you made that said, "This country spends more money on education than any other country". I think that is accurate



if you include education at the University level. If you look only at education money spent for education for secondary elementary schools, we are very far down on the list, of industrialized Nations in terms of how much money we spend. So I think that it is not accurate to say that we spend more money at all levels. I also think that one of the things that we pride ourselves most on in New Hampshire, is our local control. And a big part of that has been our local control of schools and public education. This means we not only have the opportunity to publicly determine what our schools' budgets will be, but also what our educational policy will be. If we adopt your bill, I think we have the potential to send thousands of dollars of our tax money to schools over which we will have no control over whatsoever. I think the point of public education is that it is public. It's funded by public money and we have the public governing the way our schools' operate. I think we will lose that with your bill. I don't disagree with you that public education is in need of reform, but I don't think that this is the way to accomplish it. I urge my colleagues to vote against the bill.

SENATOR COLANTUONO: I rise to support this legislation. I would like to point out to the Senators that several years ago the federal government, using the best minds in the educational field and in the country, came out with a report and it was entitled 'Nation at Risk', and the point made in that report wasn't that we were a nation at risk due to the Soviet Empire, or the Chinese lords, or the scud missiles from Iraq. We are a nation at risk because our educational system in the public sector is a failure. The public is demanding that we as legislatures do something about this. And the question each one of us has to answer is why we should not support greater competition. Competition is always good, competition always brings a better product. And no one should kid themselves that when we are paying our tax dollars to buy public education, that we are buying a product. I read an interesting note the other day that fifty cents of every property dollar that we pay goes directly to teachers salaries in this state. So we are paying a lot of money in our property taxes to buy education in this state. This is becoming and will become the issue of the 1990's. And it will grow in importance every year and the longer we hold out against it, the longer we are making a mistake in my opinion. Now we in this state brag about the fact that we have the highest SAT scores in the nation among states, with the percentage of our students going on to college, and they're roughly around 450 or so and maybe a little higher. Well the thing that nobody points out is that you get 200 points on that test just for writing your name down. And if you get a 450 as an average score, that's 40 percent. You're getting 60 percent

wrong, you're getting only 40 percent right, and I don't think that is something to be bragging about, I think we should be out to change that. I think greater competition is going to improve public education and that is what we should be here about, we should be here because we want to improve education at all levels, public and private. And this is the best way I've found to try to do this. I commend Senator Humphrey for putting this proposal forward. There is an old saying that everyone loves to use in New Hampshire, and that is 'if it ain't broke, don't fix it'. I think people are kidding themselves if they don't think that public education right now isn't broke. I think it is busted all over the place. The sooner that we face up to it, and face the truth, and do something about it, the sooner we will be doing our jobs as representing the people. Just one small anecdote from my town, we spend over \$5,000 per pupil to educate students in our high school. The local parochial school in the city of Manchester, charges roughly \$3,000 in tuition. Now a friend of mine went to her first two years at the parochial school and paid that tuition, she couldn't afford it anymore, so she went to public school this year, when I saw her after a few months, I asked her how she was doing, because she was a B student, maybe a few C's and an A here and there at the parochial school, and she said, I love it because it's easy. I'm getting all A's, and she did, she was on high honors for the first semester. That's just a small story of what the problem is. We need to encourage more competition, we need to bring up the standards, I think the parents of the state are fed up. I think that if you really talk to teachers in private, they'll tell you that they're probably fed up too. I think that they would probably benefit by this too. I think that they would benefit from competition, give them some more employment opportunities. So I strongly support this legislation. Thank you.

SENATOR ST. JEAN: Senator Colantuono, you began talking about private institutions. My question involves private schools. By their definition not everybody Senator, can go to a private school. Either through lack of money or lack of brains, or exception of exams and everything else. I guess my concern is for the poor people that can't afford to go to private schools even with Senator Humphrey's pending piece of legislation. Somebody on the West side of Manchester said that they would like to go to Trinity, but because of lack of money, they can't do this and this is going to perpetuate that whole problem with the poor people not being able to get a good and fair education. How would you address those concerns, Senator?

SENATOR COLANTUONO: Well I hope the Senator understands the point of this whole legislation is those students can now go to that school under this program, because whereas it might cost



\$5,000 to educate a public school, a voucher could be set at \$3,000 because that is all the private school charges. So that student would get the voucher under this program for \$3,000 and could have their whole education paid for.

SENATOR ST. JEAN: The problem as I see it with private schools, Senator, no matter what the voucher is, there are certain individuals by the economic circumstance that are not going to be able to attend private schools, they are going to have to be in public schools.

SENATOR COLANTUONO: Well, I think if I may respond? I think the Senator misunderstands the way the legislation would work and have me discuss it further, maybe in private.

SENATOR NELSON: Senator Colantuono, I was just wondering if you could clarify for me the difference between this, what this legislation will bring to the table to allow local communities to do this when, what is it, Epsom, is already, has already put this into place? To state this another way, why do we need this legislation, if in fact a community in this state is already doing it? Could you just help me and clarify that for me again?

SENATOR COLANTUONO: The Epsom plan is not a voucher plan, it's a tax abatement plan which relies on the general statutory authority of selectmen in towns to abate taxes for any good cause. And there may be some communities in this state who don't consider this to be a good cause or a program that they might want to undertake under that law. This is a specific voucher program where rather than abating a real estate tax, the parent is actually handed a voucher in a certain amount of money that the school district itself establishes. That is another difference, the abatement plan is handled through the selectmen on the town side.

SENATOR NELSON: Specifically, your friend who couldn't afford to attend the private school and now attends public school, how is this, if the tuition was \$3,000 and the voucher if I understood, it's not going to be \$3,000. How is that individual going to be allowed to attend a public school, how is it going to make it easier for that individual to attend the private school now?

SENATOR COLANTUONO: Well if that person were to, if that person's parents were to be given a voucher under this plan, the voucher is used for the tuition, so it wouldn't have to come out of the private resources of the parent.

SENATOR NELSON: Is it going to cover the whole cost of the tuition depending upon the school or just a partial amount?

SENATOR COLANTUONO: Well under this bill as I understand it, the school districts sets the amount of the voucher. Now, if the



amount of the voucher happens to meet or exceed the tuition of any particular school then the student is covered fully, if it doesn't meet it, then the parent might have to kick a few hundred dollars to meet the difference.

SENATOR BLAISDELL: I, Senator Hough of course has covered the areas that maybe I'd like to talk about. I want you to know, Senator Humphrey, that I'm not sensitive to being labeled, as maybe some Senators are in this room. You very kindly called me the Emperor and I did tell you people the other day that any one of you who would like to kiss one of my rings, that you could. I was going to say something else until I was gaveled out of order . . . But I didn't do that . . . course it's very easy to be brought down from being an emperor, because now they want me to be a used car salesman. That was said in the paper the other day and thanks to you, Senator Humphrey, you eloquently spoke on this, Senator, I think you did an excellent job, it shows your training in the United States Senate. I think it's well used. Senator Fraser, I think cleared up one area, on the amendment. You brought that out, I was concerned about that, but I think it was answered well. I heard some great names, Chubb and Moe, in that book that you just talked about. If this is the same Andy Moe I know that's the Bruins goalie, I can understand now why so many pucks are going between his legs. Then I've heard of some other names. Tutwhiler, and Wolf Blitzer, and everybody else. We've had some great names in the last few weeks in this country. It's obvious that I oppose this bill. I did attend the Monadnock Regional School district meeting last Saturday and they voted it down, although they didn't vote it out completely, they did say something about studying it and I might dispute that 60 something percent of the American people that would go for the voucher system. I think once they understand it, as the people of the Monadnock Regional High School understood, that they tabled it and I'm glad that they did and I'm very proud of that area. I think that you know this bill, I will just read a couple of notes and then I will sit down. This bill would direct already scarce, I think, local education dollars to private schools benefiting really more wealthy citizens in our state. I think that you're right, Senator King, you know it would cause local property taxes really, it's not going to go down that's for sure. They will probably increase because you take one student out of each class and you still have the same building, the same teachers, so I don't think that is going to do anything about lowering the property tax. I truly believe that this would erode really, public interest and public schools as the more wealthy would, you really would have no more reason to care really, and I think the idea of financially rewarding the parents of private school children, as far as I'm concerned, is

unacceptable state policy. And even if the courts, Senator Humphrey, did say this was constitutional, I don't believe that they will, by the way. I still think it is an outrageous public policy, and with that I will sit down and hope that you don't ask me any questions because I don't want to get in a debate with any of you.

SENATOR W. KING: Fellow Senators, I will be pretty brief. First of all, I'm glad that Senator Colantuono is still here because I think I need to clear something up that everybody in the Senate should understand about the SAT, O.K. Yes indeed you do get 200 points for signing your name on the SAT. But the test is scored in such a way that you lose points for questions that you get wrong and you get points for the questions that you get right and so don't anybody here think that our kids are only getting 40 percent of the answers right on those tests. They are getting a very large share of the answers right on those tests, as long as they know how to spell their name . . . as Senator Heath said. As a Master's degree student at the University of New Hampshire in education, I had the chance to read a book that got me very excited about the possibilities of teaching, and it was a book called 'Free to Teach', and it was written by a man named Joe Nathan, who pioneered in many respects, the whole issue of choice in education in the United States. And at that time, that was back in 1980, I was very excited about the idea, and so I've done a great deal of additional reading on it and even Doctor Nathan, who is now one of the foremost authorities on choice, says that there are some major issues that we need to consider. That is why I think that the debate that we are having here today is a very healthy one. This is not a change, if it's going to happen, that is going to happen quickly. And I would hope that Senator Humphrey, wouldn't be to impatient about it. If this is going to happen, it is going to have to happen with a great deal of debate about the major issues of our day. The public policy in the United States of America today is to make sure that every child that comes into this world, in this country, has the opportunity to do the very best that they can, and to be the very best that they can. We set floors, not ceilings in this country. And that is what our educational system has always been designed to do. There is a place for the idea of choice, but that place has to keep in mind those things that are the most important to us as citizens in this country, and the most important to us in terms of public policy. First of all, the equity issue. What happens to our public schools, what happens to our educational systems, if we decide as a matter of public policy, that we are going to give \$1,000 vouchers, or \$2,000 vouchers to children to attend private schools or to attend other schools? What happens to the kid that Senate St. Jean was just talking about from the West side of Manchester, who can't afford the



transportation to go to some other school? Transportation is a key issue here. If you are not going to provide transportation cost for a child to go to another school, you are condemning poor children in this state and middle class kids to second rate neighborhood schools because they'll be second rate because we will take all the money out of our neighborhood schools and we will give them in a form of vouchers to kids to take to some other school. Kids who can afford to travel, kids who can afford to fly to California to go to a private school. That is not good public policy. The idea of educational choice has merit and I think that we ought to be talking about it, and we ought to be talking about it for a long time to come. But this bill, it may be good politics, Senator Humphrey, but it's bad public policy. We can not afford, our communities are tearing themselves apart right now over the property taxes, and largely the focus of that has been public education. It is expensive to take care of our kids, but we believe in this country that it is worth investing in that future. There is a lot of change as Senator Shaheen said before. There is a lot of things that we need to do about public education in this country, but let's not tear apart the system first, and that is exactly what this proposal would do.

SENATOR HEATH: Senator King, is it your testimony that we just heard that if given the opportunity through a voucher plan or any other choice in education plan, that the choice between public education system and any other system, that people will flee in great numbers as the people have fled the Soviet Social Republics?

SENATOR W. KING: TAPE INAUDIBLE . . . and the idea of magnet schools, which has been used for years in New York City. The idea of a voucher system in the Minneapolis, Saint Paul area where transportation issues are addressed. Those have merit, but the idea here is, if you give wealthy folks the opportunity to get a tax break at the expense of the working class, the poor and the middle class who are property taxpayers in that town, yes, indeed. They are going to take advantage of that, send their kids to private school, while the schools deteriorate in our local communities.

SENATOR HEATH: Senator King, are you aware who opposed and who has finally stopped Pauly Williams, in the city program in Minneapolis?

SENATOR W. KING: No, I'm afraid I'm not.

SENATOR HEATH: Well it's the NEA, the same people who are opposing this one.

SENATOR W. KING: I assume that your answer was a question as well, would you believe?



SENATOR HEATH: It was, would you believe that's what it was?

SENATOR W. KING: Well, Senator Heath, I don't know the answer to that. I do know that as has been said by Senator Humphrey, that there are people of all different political persuasion who support this concept, but most of them support it because they believe in equity in education. This proposal will not create equity, this proposal will devastate the educational system that we have without putting something in its place.

SENATOR HEATH: Senator King, did you attend the hearing on this bill?

SENATOR W. KING: No, I didn't, Senator Heath.

SENATOR HEATH: Senator King, would you believe that there was only one individual at the hearing that opposed this that was not an employee in some way of the public educational system, and that that person had their children and apparently didn't want those schools contaminated with poorer children?

SENATOR HEATH: Senator Heath, I would echo your sentiments the day we discussed the art fund in the state of New Hampshire, and that is, you just never know who's going to show up at a public hearing.

SENATOR J. KING: I rise in opposition to choice. There are a lot of facts. I sat through that meeting, three or four hours, with Senator Humphrey and Senator Hough. And I listened quite attentively to that, because I am very interested in education, having spent my time in it for 14 to 15 years as a teacher and as a principal. And I had children who attended a private, parochial school, so I know the other side of the coin also. At no time can I recall when I came out of the real blazing light, were there any specifics as what is definitely wrong with the school system in the public schools, what is definitely wrong with it? If there is something wrong with it, let's list it, fix it, and then have equal schools, if they are better. Can you imagine, I heard Senator Humphrey say that he knows the teachers there, they're all good teachers. Of course they're all good teachers, they wouldn't be in the profession if they weren't good. It's one of those professions that you have to be to be in there, and if you're not you don't last there too long. But it certainly doesn't help whether it's some kid in the third or fourth grade who is learning how to read, or the teachers, or the principals, or the superintendent, or anybody in the city, or the town that keeps saying this is going to make better schools. The public school is not doing what it is supposed to be doing. What is it supposed to be doing that we want to change in it, what is it supposed to be doing, tell me something? One, two, one

hundred, one thousand, list them, then go back and can we cure those? If we can cure them, fine. If we can't, then we will start talking about something. But let's not label thousands, and thousands of people as not doing a good job or being in a poor system. I have worked with these people and I couldn't find any finer people, I couldn't find any harder workers. Superintendents, I don't know, I'll have to question that one. Not only that, but you have your variations in the private schools and in the parochial school as well as in the public schools. It doesn't mean that every private school has got the best teachers. You've got your variations there, ask some of the students, they will tell you who the good teachers are in there. They will tell you who they are in a public school, so you still have you variations. And I think if you tell, and this is not new, someone said it's been going on for 10 years, 12 years telling us how terrible the public school system is and I think it's like the old Hitler method, you tell them long enough and loud enough, you're going to convince them, but that doesn't make them a better teacher, or a better principal, or a better superintendent, nor does it make them better students. I'll end up by saying, if there is something wrong with the system let's find out what it is. If it's the teachers, we'll see what we can do about it, if it's outside the system, if it's the school boards or superintendents or whatever it is, let's find out what it is, but let's not knock the whole system on the grounds that we are doing at the present time.

Senator St. Jean has moved the question.

Adopted.

Senator Humphrey offered a floor amendment.

### **Floor Amendment to SB 103-FN**

Amend RSA 194:60, III as inserted by section 1 of the bill by replacing it with the following:

III. "Eligible provider" means an educational institution, whether public or private, including a program of home schooling, which has agreed to accept an education voucher in full or partial payment for the educational services it provides to a pupil and which, if private, is approved for attendance purposes by the state board of education as provided in RSA 194:67.

Amend RSA 194:61 as inserted by section 1 of the bill by replacing it with the following:

194:61 Program Established. There is established an optional education voucher program. The program shall provide a pupil in elementary or secondary school the opportunity to elect to attend a public school other than the one to which he has been assigned in his



resident district or a private school and to use an education voucher as full or partial payment of the tuition costs of attending such school. No funds provided by a voucher shall be applied to the cost of religious studies or exercises. The voucher program shall apply to kindergarten only when kindergarten is offered both in an eligible pupil's resident district and by the eligible provider chosen by the pupil. School districts may elect to take part in the program on an individual basis as provided in RSA 194:62-64. Any participating provider shall comply with all federal and state non-discrimination policies.

Amend RSA 194:67 as inserted by section 1 of the bill by replacing it with the following:

194:67 Rulemaking. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to the approval for attendance purposes of private educational institutions in this state for the purpose of determining the fitness of such institutions to be named eligible providers under this subdivision.

### AMENDED ANALYSIS

This bill grants school districts the option of electing to use an education voucher program for both public and private schools in grades K-12 throughout the state as long as these funds are not applied to the cost of religious studies or exercises. The school district shall make such election at the school district meeting which shall remain in effect until a vote is taken to change such election, and it also sets the amount that the voucher will be worth.

The education voucher program will enable a pupil to elect to attend any public or private school he wants in the state, provided that a private school has been accredited by the state board of education for such purpose.

The bill also provides a procedure for parents to appeal a decision of the local school board relative to denial by such board of a request for a pupil to attend another public or private school in the state under the program.

Recess.

Out of recess.

A Roll Call was requested by Senator Heath.

Seconded by Senator Nelson.

PRESIDENT DUPONT: If the members would please be attentive, as was raised in a debate, there is a drafting error in the amendment before you. We have requested an amendment from Legislative Services and it is not back up here yet and I would like to instruct

the Clerk, Gloria Randlett, at this point in time, that the bill during the enrollment process, we would allow the Clerk, to make the change, to change the word 'pupil' to 'parent' as I understand it. That is all the amendment will do. I think that is clear. So rather than laying this bill on the table or defeating this amendment if that is the only change and the body is willing to do that, then we will vote on the amendment with the change. Hearing no objection.

SENATOR FRASER: I don't think the word 'pupil' substituting for 'parent' is going to do it because if Senator Humphrey is addressing the same concern I had, the program shall provide a pupil in elementary or secondary school. If you just change the word 'pupil' to 'parent', it's going to read: the program shall provide a parent in elementary so.

SENATOR HUMPHREY: I guess the goal would be reached simply by substituting the words 'parents of a pupil'.

The following Senators voted Yes: Heath, Roberge, Colantuono, Poldes, Humphrey.

The following Senators voted No: Oleson, W. King, Fraser, Hough, Currier, Disnard, Blaisdell, Bass, Pressly, Nelson, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

Yeas: 5

Nays: 17

Floor Amendment Fails.

Senator McLane not voting, excused.

SENATOR HUMPHREY: I would like to address the bill just briefly, Mr. President. The amendment just defeated was intended to address the concerns of the critics. It made explicit requirement that schools benefiting from the bill would have to be in compliance with federal and state nondiscrimination statutes, further that the funds could not be applied to religious purposes or exercises. And it's a mystery to me why Senators would want to defeat such an amendment, but nonetheless, I said in my opening remarks that I felt that the amendment was redundant. Because clearly, the bill, the funds under this bill cannot be used constitutionally to advance religious purposes, nor could the ultimate, nor could the schools be out of compliance with state and federal nondiscrimination statutes, so the amendment was really redundant and the bill is no way weakened by the failure of the amendment to be adopted. So I would just finally plead again with my colleagues to let the towns decide this matter. Give the school districts the choice. There is something wrong with our schools and it's the structure. That's the point. It isn't the teachers or the students, it's the structure. The problem is



that we have a near monopoly in education, and when you have a near monopoly you have a poor product that's overpriced. And you have a situation that is static. There is no room for real reform without competition and choice. This bill will provide that choice and I urge my colleagues to let our school districts decide, let them decide. Let them have that choice, they're not dumb, they're as smart as we are. They're just as fiscally conservative and prudent as we are in this body. I say pass the bill, let the schools decide, let the inevitable lawsuits come, and let the matter of constitutionality be decided in the courts where it ought to be decided. I thank my colleagues, I thank the Chair particularly for his assistance in correcting the drafting error.

SENATOR HOUGH: Very quickly. Colleagues, the motion we have before us is Senator Humphrey's motion of ought to pass, we've had the debate, we defeat the Humphrey motion if you are consistent with your prior vote, and then we will dispose of this legislation.

Senator Blaisdell has moved the question.

Adopted.

A Roll Call was requested by Senator Humphrey.

Seconded by Senator Roberge.

The following Senators voted Yes: Humphrey, Podles, Colantuono, Roberge, Heath.

The following Senators voted No: Cohen, Hollingworth, Delahunty, Shaheen, St. Jean, Russman, J. King, Nelson, Pressly, Bass, Blaisdell, Disnard, Currier, Hough, Fraser, W. King, Oleson.

Yeas: 5

Nays: 17

Ought To Pass Motion Fails.

Senator McLane not voting, excused.

Senator Hough moved the motion of Inexpedient To Legislate.

Adopted.

**SB 131-FN**, an act relative to choice in education. Judiciary committee. No Recommendation. Senator Disnard for the committee.

Senator Heath moved Ought To Pass.

SENATOR HEATH: I will not take a lot of time, I can count and I know what this is about, it isn't about the merits of this legislation. I would be glad to Q & A anytime to discuss this bill. What it is about, is a monopoly for those who have less wealth than the people like the

Melons who do have choice in education. This bill sprung from an idea actually presented by Ellen Ann Robinson, and if you know both of us, you know that we have seldom, if ever, to my knowledge, never agreed on anything else. Educational choice in a hundred forms is sweeping the nation. This weekend I'm going to be Chairing a national task force for ALEC in Phoenix, because they are dealing with choice in education, I hope with a little more advantage than we have here. If you look at the fiscal note on this bill and the other bill, you will know where the noise is coming from. If you looked at the testimony of the paid professionals of the educational establishment that come our tooth and nail because they know one thing, they have one fact in hand that Senator John King is asking today, "what's wrong with the system"? What's wrong with it, it's a monopoly, there is no competition, you don't have to do well, you don't have to perform, you don't have to have standards. That's what's wrong. The only thing that cures it is competition. It brings the price down and raises the quality. If you look around all of our society and where do you find the best products, where there is competition. What happened to the American Automobile Industry? It had a near monopoly, three large companies, the Japanese engineered better cars, brought the price down, that's what happened. And all of these bills whether it's this or a voucher system or target schools or any other schools, the chief opponent is the NEA, because they have the most to fear because the minute they open their doors to an opportunity, even if it's equal, let alone cheaper, people will flee the system. And if you make it more available, they flee in greater numbers. The end product, though, will be better public education because then they will get off their duff, then they'll get to work, and then they'll compete and we will have better schools. Senator Hough said it's worked for 200 years, it's gone unchanged for 200 years. The only institution in our society that has not changed in 200 years — changed anything — and that's . . . and that's the reason that it is failing. That's the reason it needs competition, but I can count. I won't belabor the point, I thank you for your attention.

SENATOR RUSSMAN: Senator Heath, would you be kind enough to relay the Senate's vote on a previous bill to the group that you're going to Chair this coming weekend concerning this . . .

SENATOR HEATH: I will relay not only the vote, but I will relay any concerns that you would like me to carry to those people as they move forward and begin the revolution in Arizona instead of New Hampshire.

A Roll Call was requested by Senator Heath.

Seconded by Senator Nelson.



Recess.

Out of recess.

The following Senators voted Yes: Heath, Roberge, Colantuono, Poldes, Humphrey.

The following Senators voted No: Oleson, W. King, Fraser, Hough, Currier, Disnard, Blaisdell, Bass, Pressly, Nelson, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

Yeas: 5

Neas: 17

Ought To Pass Motion Fails.

Senator McLane not voting, excused.

Senator Heath moved that SB 131-FN be sent to Interim Study.

SENATOR DISNARD: I'm surprised in my colleagues. I support Interim Study because I believe, I think rather, that the parochial, if in study, the word parochial school is eliminated and the long term tuition it might be worth the study, it might be worth answering some other questions, maybe more information will be forthcoming. That is the type of bill which is worthy of study, but you understand what I'm saying, with the word parochial, which wouldn't be part of this motion, could be looked at and reviewed.

Recess.

Out of recess.

PRESIDENT DUPONT: There has been a request for a roll call, there also has been questions put to the Chair as to the appropriateness of the Interim Study motion. To clarify the issue, if a bill is indefinitely postponed in the Senate, it cannot be brought up in the second session. Under Joint Rules, which we have not adopted yet in this body, but which we will ultimately adopt at some point in time. Interim Study, indefinite postponement, Inexpedient to Legislate would dictate that the subject matter of that bill would not be allowed to be brought up in the second session, the second half of our legislative session, either as a new bill or as an amendment to a bill. So even though Interim Study is the motion before you, when joint rules are adopted, it will not allow this legislation to be brought back out in the second year.

SENATOR HEATH: What is your interpretation of the purpose of Interim Study?

PRESIDENT DUPONT: Senator, my interpretation of Interim Study, is for the committee that has held the hearing on this bill if it desires, because it is not a formal study committee as you know,

Senator, to take this legislation and look at it, and if it so desires, get legislation ready to be introduced in the next session, next biennial session which would be not the upcoming January session, but the one subsequent to that. And obviously as the Senate knows, if you want a formal study committee, then you have the right to amend a piece of legislation and put a reporting date back in it that would allow you to bring legislation out in the next session.

SENATOR NELSON: I would just like to get some clarification on the information that you just gave to Senator Heath. Is it because we voted on these rules that we cannot have Interim Study mean something other than what you just defined?

PRESIDENT DUPONT: Senator, when you define what you are going to do with a study, that is the question. If the Senate wants a formal study then it would amend this bill to put a study in, forcing the Senate, and the House to study. Because if we are going to pass a bill that has a study in it, it would require action by the other body. The Interim Study motion, merely delays action on the bill and gives the sponsor and those interested in a bill an indication that the matter is of sufficient, or is warranted, for study and ought to be brought back before the body. So Interim Study can be defined by whatever you would like it to mean, Senator, but it has meant in the past, that the policy committee will study the information contained in a bill and hopefully bring forward a recommendation and new legislation at some point in time. And if one could also add to that, it has also been used in the past as a gesture of kindness, for those who do not want their legislation killed, in the past.

Recess.

Out of recess.

A Roll Call was requested by Senator Heath.

Seconded by Senator Nelson.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Currier, Disnard, Roberge, Bass, Pressly, Nelson, Colantuono, Poldes, Humphrey, Russman, Shaheen.

The following Senators voted No: Hough, Blaisdell, J. King, St. Jean, Delahunty, Hollingworth, Cohen.

Yeas: 15

Nays: 7

Motion of Interim Study is Adopted.

Senator McLane not voting, excused.



**SB 146**, an act relative to equipment and instruction programs and revolving funds for regional vocational centers. Education committee. Ought To Pass With Amendment. Senator J. King for the committee.

**SENATOR J. KING:** This bill is a vehicle to establish a program for equipment and instruction by establishing a revolving fund and the money can be gained from gifts or any other way I guess, that's legal. The amendment to this bill specifies where the fund is to go, and that would be put within the district or that vocational training school.

### **Amendment to SB 146**

Amend RSA 188-E:11 as inserted by section 1 of the bill by replacing it with the following:

188-E:11 Equipment and Instruction Program; Revolving Fund.

I. There is established an equipment and instruction program in which any regional vocational center may establish a revolving fund to be used for capital improvement costs for the replacement or upgrading of equipment, or for aiding instruction in the various vocational programs offered by the center. The fund shall be used to pay necessary costs of equipment and related instructional materials which are required to provide up-to-date adult, business and industry training, re-training or customized programs.

II. If a revolving fund is established, the revenues from non-school district sources generated by vocational educational programs in excess of legitimate and customary school district expenses shall be placed in the fund. Such revenues shall include but are not limited to profits from program operations consisting of capitalization costs calculated as part of rental services, cash gifts to vocational education programs and moneys from the sale of donated equipment. The revolving fund shall be established as a separate school district account and shall be used only for the purposes specified in paragraph I.

### **AMENDED ANALYSIS**

This bill allows regional vocational centers to establish equipment and instruction programs which are funded by revolving funds. Funds may be used to pay for costs of equipment and instructional materials for business and industry training, re-training, and customized programs.

This bill also requires that any revenues received from sources outside the school district be placed in the revolving fund, if established.

Amendment Adopted.

Ordered To Third Reading.

**SB 225-FN**, an act relative to the higher educational building corporation and loan eligibility. Education committee. Ought To Pass With Amendment. Senator Hough for the committee.

**SENATOR HOUGH:** The committee on Education recommends that SB 225-FN as introduced by Senator King, be reported Ought to Pass, and the amendment I believe is on page 14 and 15. This piece of legislation allows for . . . bear with me a second. Higher education building corporation and loan program to be participated in with nonprofit education institutions that provide services to the state government for its clients. It is a piece of legislation that we had initial concerns with. We have done a great deal of study and we have adopted an amendment that will satisfy these nonprofits and the other question that Senator Heath raised was the faith and the credit of the state of New Hampshire and that is not pledged. We support the amendment and support passage of the bill.

**SENATOR PODLES:** Senator Hough, as I understand the bill, SB 225 will make a significant change for this authority, and correct me if I'm wrong. What it does, is it changes the criteria for hospitals to institutions. The criteria for tax exempt bonds from hospitals to institutions and health care, which means, and that would include HMO's, it would include Health Source, it also changes the criteria for tax exempt bonds from a higher education to educational facilities, which in my view and the way I understand it would include private schools like St. Pauls and Phillips Exeter, so my question to you would be, do these institutions, once this bill is passed, will they come under 501c, which is tax exempt?

**SENATOR HOUGH:** The answer that I would give you is no. And the amendment addresses only those institutions. Go ahead George.

**SENATOR DISNARD:** Senator Hough, would you believe that I heard testimony from the higher education bill in corporation authorities, are you listening?

**SENATOR HOUGH:** Yes I am.

**PRESIDENT DUPONT:** Senator Disnard, he has deferred to you to respond to Senator Podles question.

**SENATOR DISNARD:** Senator Podles, it was my understanding at the hearing that the authority the higher education corporation agreed with this. They did not believe that it would involve perhaps three or four at the most schools such as the Spaulding school in Tilton. It was extremely limited and would not do as we heard testimony, it did not address the concerns of the matters that you have



presented them. Also, it was indicated that it would not, any bonds would not be the problem, or concern, or the responsibility, or credit to the state. And bonds would be sold the way this was written would have to be based on collateral from the institution that was requesting it, it would also mean that these schools that keep borrowing could borrow the money under this situation and at least \$500 over a 20 year loan would result in a saving to the public school districts in the state of New Hampshire. Also, when the people were questioned by my committee, myself specifically, it was indicated that they would probably raise their rates automatically, the answer was no, that the state of New Hampshire approves and establishes the rates.

SENATOR PODLES: Senator Disnard, if you turn to page one of the bill, and I would like to have that question answered because I feel that it is very important. What they're doing here is taking out for higher education, which to me means colleges and universities, and the tax exempt bonds were and are currently for higher education. They're taking that out and they're putting in educational institutions which to me would include any educational institution and as I read the bill, would you believe, and as I read the bill there are 15 of those institutions, and this includes the health care ones and also the education ones. And so my question to you again is, will they be exempt from taxes even in the community, because they will be under 501c?

SENATOR DISNARD: My answer to you is, it was explained to us like 501 was explained and that was no. I do not believe.

SENATOR HOUGH: Eleanor, the amendment that we have to this bill adds and it only adds to the statutes D:3, XIV, (14) adding the following language to RSA 195:4c is licensed as a child care facility/treatment center and facility/treatment depends on the type of state license that the institution has. There are different types of licenses, either a license of facility or a license as a treatment center, approved as a special education program for a private facility by the state. So the state is licensing certain facilities. One type or another and give them a license, and then they are approved by the state to service the state's clients. The best example is the Spaulding Youth Center in Tilton. The clients at the Spaulding Youth Center were they not there, would have to be in a state facility. The state contracts with that institution as the state is contracting with community based programs and developmental disability where they used to have programs . . . We're only extending the statute to pickup these licensed facilities that are taking care of our clients. That's all the broadening does. It does not change the present law other than

to allow for these few additional places if that's your question. If hospitals, colleges, are presently under it, we're not addressing that.

SENATOR PODLES: No, I know you're not, but you're expanding.

SENATOR HOUGH: To the institutions that are licensed by the state for the care of the state's clients.

SENATOR PODLES: Senator, isn't it true that all of these institutions, these additional 15 institutions are now going to be getting low interest loans?

SENATOR HOUGH: That is the intent. So that they can make, continue to survive. Failure to do so, would mean that the state would have to provide in-house facilities for these clients.

#### **Amendment to SB 225-FN**

Amend RSA 195-D:3, XIV, as inserted by section 2 of the bill by replacing it with the following:

**XIV. "Institution for secondary education" means a non-profit institution for education, which is located within the state and which:**

**(a) Provides a program of education within the state which is preparatory for postsecondary or higher education; or**

**(b) Is certified as an Intensive Group Home/Educational Facility by the state; or**

**(c) Is licensed as a group home/treatment center and approved as a special education program for a private facility by the state.**

Amend RSA 195-D:9, VIII, as inserted by section 6 of the bill by replacing it with the following:

**VIII. The corporation may not issue bonds, notes or other obligations on behalf of an institution for secondary education unless one of the following criteria has been met:**

**(a) Such bonds, notes or other obligations shall be rated, on the basis of the credit of such institution, in one of the four highest primary categories of at least one nationally recognized rating service; or**

**(b) Such bonds, notes or other obligations shall be credit enhanced by an insurance company, guarantor, bank or other financial institution, and as a result of such credit enhancement, such bonds, notes or other obligations shall be rated in one of the three highest primary categories of at least one nationally recognized rating service; or**

**(c) Such bonds, notes or other obligations are purchased in a private placement by an accredited investor as such term is defined at such time under the federal securities laws.**



Amend RSA 195-D:21, VIII, as inserted by section 9 of the bill by replacing it with the following:

VIII. In the case of refinancing of existing indebtedness, such refinancing will assist the participating institution [of higher education or participating hospital] in either lowering the cost of providing education or health care [and hospital] facilities within the state [or in providing education or health care and hospital facilities within the state] **or such refinancing is in connection with a project being provided by the participating institution.**

Amendment Adopted.

Ordered To Third Reading.

**SB 8-FN**, terminating the New Hampshire Higher Educational and Health Facilities Authority and transferring its duties, powers and responsibilities to the New Hampshire housing finance authority. Banks committee. Inexpedient To Legislate. Senator Disnard for the committee.

**SENATOR DISNARD:** The committee recommends, the Banking committee recommends Inexpedient to Legislate. This bill, one person as I recall appeared in favor. A member of the Governor's staff appeared and indicated that the Governor was opposed to this bill. The Governor is not taking action to abolish the authority or transfer authority to another agency. Everyone agreed that problems existed. Management problems existed; however, I think that we all should understand that it was the authority themselves that called attention to the Governor, and corrective authorities within the state, that their auditors had discovered a problem. These six people on the authority are all volunteers and give many hours. They instituted corrective measures. In other words, the problem was called to their attention, they notified the Governor and other authorities and they instituted correct action. It was interesting to me to notice that the representative to the New Hampshire Housing Authority did not want this passed on to them, they felt that they did not have the expertise. There was no evidence of any criminal wrongdoing by an individual. Everyone seemed to agree to it, so therefore, we are recommending Inexpedient to Legislate.

**SENATOR HEATH:** Senator Disnard, do I take by your statement that we are rewarding ineptness.

**SENATOR DISNARD:** That's a double-edged sword.

**SENATOR HEATH:** I try.

**SENATOR DISNARD:** No, the individual that was involved is no longer employed.

SENATOR HEATH: Thank you.

Committee Report Adopted.

Adopted.

**SB 38-FN-A**, an act exempting interest earned by investors in certain mutual funds from the interest and dividend tax. Banks committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill is from the committee on Banks by Senator Currier, on behalf of the New Hampshire Municipal Association. As we are all aware, there is a great appetite for investors to purchase tax exempt securities, and in this case, tax anticipation notes. If a person today makes such a purchase, of course there is no requirement to pay any interest or dividends tax; however, if that same person invested in a mutual fund that in turn invested in New Hampshire tax exempt securities then that same person is subject to a interest dividends tax. What SB 38 does, Mr. President, and members of the Senate, is to require that any group that forms a mutual fund for the sole purpose of investing in New Hampshire's tax exempt securities, will not be subject to an interest and dividend tax. That is all that this bill does. It broadens those people who now invest as individuals to those mutual funds, I should say. Any mutual fund that is designed specifically to invest in New Hampshire tax emept securities will not be subject to an interest and dividend tax and that is what the bill does. Mr. President, one more thing, the Department of Revenue Administration says that the fiscal impact would result in something less than \$100,000 in reduction in revenue to the state. Commissioner Arnold suggested to me, that clearly if this bill becomes law, that the fiscal impact, whatever it might be, would be far, far, far less than what this bill could do for the, to the, economy in the state of New Hampshire on behalf of the cities and towns.

Adopted.

Ordered To Third Reading.

**SB 52**, an act changing the name of the Federal Home Loan Bank Board to the Office of Thrift Supervision. Banks committee. Ought To Pass With Amendment. Senator Pressly for the committee.

SENATOR PRESSLY: This bill is exactly what it says. This bill changes the name of the Federal Home Loan Bank Board to the Office of Thrift Supervision in the New Hampshire RSA provisions in order to be consistent with federal law. If you read it, that is exactly what it does, it strictly changes a name throughout the statutes.



**Amendment to SB 52**

Amend the bill by replacing all after the enacting clause with the following:

1 Name Change. Amend RSA 359-C:3, XIV (b) to read as follows:

(b) Any authority of any state or of any political subdivision of any state which the United States secretary of the treasury by regulation determines to be exercising supervisory functions over any financial institution which are substantially similar to those supervisory functions exercised by the Federal Deposit Insurance Corporation, the [Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board] **Office of Thrift Supervision**, the National Credit Union Administration, the Federal Reserve Board, the Comptroller of the Currency or the Federal Communications Commission.

2 Name Change. Amend RSA 384-B:7, I(b) to read as follows:

(b) Federal savings and loan associations operating within this state are permitted under rules of the [Federal Home Loan Bank Board] **Office of Thrift Supervision**; or

3 Name Change. Amend RSA 384-B:7, II to read as follows:

II. Any rules adopted under the authority of this section shall require any bank, cooperative bank or credit union establishing and maintaining any such electronic device or machine to share such device or machine with any other bank, cooperative bank or credit union requesting participation therein subject to the payment by such other bank, cooperative bank or credit union of the reasonable costs of participation; and with any national bank, federal savings and loan association or federal credit union operating within the state which requests such participation, subject always to the payment of the reasonable costs of participation, provided the applicable rules of the Comptroller of the Currency, [Federal Home Loan Bank Board] **Office of Thrift Supervision** or National Credit Union Administration governing the establishment and maintenance in this state of such electronic devices or machines by national banks, federal savings and loan associations or federal credit unions require sharing thereof with state-chartered banks or credit unions under terms and conditions no more restrictive than those contained in this section with respect to sharing between banks, cooperative banks or credit unions and national banks, federal savings and loan associations or federal credit unions.

4 Name Change. Amend RSA 386:10, II(a) to read as follows:

II(a) Notwithstanding any other provision of law to the contrary, the board of trust company incorporation may adopt rules pursuant to RSA 541-A permitting any mutual savings bank to convert to stock form in the same manner, to the same extent and with compa-

nable limitations as federal savings and loan associations operating within this state are permitted under rules of the [Federal Home Loan Bank Board] **Office of Thrift Supervision**. However, no conversion under this paragraph shall be permitted which includes as part of the conversion transaction the issuance of securities of any bank or holding company other than securities of the converting savings bank or the securities of a holding company organized by the converting savings bank in order to acquire its capital stock, unless in addition to procedures required by the rules adopted under this paragraph, it is ratified by the depositors of the mutual savings bank seeking to convert. Ratification by depositors shall not be required if:

(1) The conversion is part of a reorganization into a mutual holding company pursuant to RSA 386-B;

(2) The conversion is required by federal or state regulatory authorities; or

(3) The conversion has been commenced by the filing with the board of trust company incorporation of an application to convert prior to the effective date of this paragraph.

5 Name Change. Amend RSA 393:47 to read as follows:

393:47 Filing of Charter. There shall be filed with the bank commissioner a copy of the charter issued to such federal savings and loan association by the [Federal Home Loan Bank Board] **Office of Thrift Supervision** or a certificate showing the organization of such association as a federal savings and loan association, certified by the secretary or assistant secretary of the [Federal Home Loan Bank Board] **Office of Thrift Supervision**. A copy of the charter, or of such certificate, shall be filed by the association with the secretary of state and with the office of the clerk of the town in which the association conducts its business. Any failure to file any such instruments as aforesaid shall not affect the validity of such conversion. Upon the grant to any association of a charter by the [Federal Home Loan Bank Board] **Office of Thrift Supervision**, the association receiving such charter shall cease to be an association incorporated under this chapter and shall no longer be subject to the supervision and control of the bank commissioner.

6 Name Change. Amend RSA 393:49 to read as follows:

393:49 Previous Conversion. Any building and loan association or cooperative bank, which has heretofore converted itself into a federal savings and loan association under the provisions of the Federal Home Owners' Loan Act of 1933 and has received a charter from the [Federal Home Loan Bank Board] **Office of Thrift Supervision**, shall hereafter be recognized as a federal savings and loan association, and its federal charter shall be given full credence by the courts of this state to the same extent as if such conversion had taken place



under the provisions of this subdivision; provided, however, that the foregoing requirements with respect to the filing with the bank commissioner of a copy of the federal charter or a certificate showing the organization of such association as a federal savings and loan association shall be complied with. All such conversions are hereby ratified and confirmed, and all the obligations of such an association which has so converted shall continue as valid and subsisting obligations of such federal savings and loan association, and the title to all of the property of such an association shall be deemed to have continued and vested, as of the date of the issuance of such federal charter, in such federal savings and loan association as fully and completely as if such conversion had taken place since the enactment of this subdivision pursuant thereto.

7 Name Change. Amend RSA 393:51 to read as follows:

393:51 Filing of Minutes. Copies of the minutes of the proceedings of such meeting of members, verified by the affidavit of the secretary or an assistant secretary, shall be filed in the office of the bank commissioner and mailed to the [Federal Home Loan Bank Board] **Office of Thrift Supervision**, Washington, D.C., within 10 days after such meeting. Such verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holding and action of such meeting. At the meeting at which conversion is voted upon, the members shall also vote upon the directors who shall be the directors of the state-chartered association after conversion takes effect. Such directors shall then execute 2 copies of the articles of agreement provided for in this chapter. The bank commissioner may insert in the articles of agreement the following: "This association is incorporated by conversion from a federal savings and loan association." The directors chosen for the association shall all sign and acknowledge the articles of agreement as subscribers thereto.

8 Name Change. Amend RSA 393-A:2, II to read as follows:

II. "Charter C" means a charter which is identical in form to "Charter S", as issued by the [Federal Home Loan Bank Board] **Office of Thrift Supervision** pursuant to federal laws and regulations, as amended from time to time, or an amended charter issued by the bank commissioner allowing a cooperative bank, building and loan association or savings and loan association to accumulate funds through the issuance and sale of its capital stock.

9 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted.

Ordered To Third Reading.

**SB 59-FN**, an act relative to a state-sponsored credit card program. Banks committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: I move at this time that the bill be recommit-  
ted to the Banks committee. I apologize to my colleagues, I was  
supposed to get an amendment prepared, and I didn't do it. It's a  
very simple amendment, but it should be done before it's presented  
for Senate deliberation.

### MOTION TO RECOMMIT

Senator Fraser moved to recommit SB 59-FN.

Adopted.

SB 59-FN, has been recommitted to the Banks Committee.

**SB 228-FN-A**, an act relative to the treatment of New Hampshire  
trusts. Ways and Means committee. Ought To Pass With Amend-  
ment. Senator Pressly for the committee.

SENATOR PRESSLY: This is a rather exciting and complicated  
looking bill, but the committee is unanimously pleased and would  
like to compliment the sponsor, our chairman, Senator Fraser. This  
30 page bill would allow mutual fund firms headquartered in the state  
to be treated as trust companies and give them favorable tax treat-  
ment. Presently these companies can be based in New Hampshire,  
but there is very little tax incentive for them to do so, because all  
money now invested in the trust would be subject to the BPT. The  
bill would exempt trust money from the BPT, but still require the  
trustee or the securities advisor to pay a profit tax on any commis-  
sion that he or she earns, while the investors would pay an interest  
and dividends tax on any gross profit earned on their investment. I  
would like to address also the amendment which I believe is the first  
section before you. The amendment that has been placed onto this  
bill is to one; is to clear up some minor language in the main trust  
aspect. But a very significant other part has been added that you  
need to know about. As you know, our state is in the process of  
hoping that the federal FDIC will consider the infusion of public  
money into some of our banks to help them make a transition and to  
restructure their systems. Lo and behold the state of New Hamp-  
shire business profits tax as written would charge a tax on that fed-  
eral money. We all agree that this would be extremely inappropriate,  
so there has been a one sentence amendment added to this bill. I feel  
comfortable that it is totally germane because the language of the  
bill addresses the business profits statutes. Both aspects are impor-  
tant to the state of New Hampshire. I would like to tell you infor-  
mally that when I first looked at the bill, I was a little bit terrified, it



looked pretty complicated. And with the chairman's permission I did ask many independent agencies to take a look, particuliary the New Hampshire trust aspect, and each agency that I inquired with, did return with the understanding that it was a clean, good bill: it is a positive bill. So it's with extreme confidence having researched it to that extent, that I can encourage you to support first the amendment to allow for the FDIC, what the open banks assistance aspect and then two, as a package along with the New Hampshire trust division to vote Ought to Pass. I think it's an exciting, positive thing for the state of New Hampshire.

SENATOR BLAISDELL: I rise in support of the committee report, and I compliment Senator Fraser also. I have talked to Stan Arnold in Revenue Administration as I did with the previous bill, he says that it's fine from a taxed end point and I think that you and I agreed to that, Leo, and there is no need to send this to Finance. I would hope that you would pass this and get it out of here.

#### **Amendment to SB 228-FN-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to the treatment of New Hampshire trusts and the open  
bank assistance program under the New Hampshire  
business profits tax.

Amend RSA 293-B:6, III as inserted by section 1 of the bill by replacing it with the following:

III. A beneficial owner's beneficial interest in the New Hampshire trust is freely transferable except to the extent otherwise provided in the governing instrument of the New Hampshire trust.

Amend RSA 293-B:12(d) as inserted by section 1 of the bill by replacing it with the following:

(d) If a New Hampshire trust is filing a certificate of merger or consolidation, the certificate of merger or consolidation shall be signed by all of the trustees or as otherwise provided in the governing instrument of the New Hampshire trust, or, if the certificate of merger or consolidation is being filed by an other business or investment entity, the certificate of merger or consolidation shall be signed by a person authorized to execute such instrument on behalf of such other business or investment entity.

Amend RSA 293-B:16, I as inserted by section 1 of the bill by replacing it with the following:

I. The name of each New Hampshire trust as set forth in its certificate of trust shall not be the same or deceptively similar to the name of any corporation, trade name, limited partnership or New

Hampshire trust reserved, registered or organized under the laws of this state or qualified to do business or conduct investment activity or registered as a foreign corporation or foreign limited partnership in this state; provided, however, that a New Hampshire trust may register under any name which is similar to the name of any corporation, trade name, limited partnership or New Hampshire trust reserved, registered or organized under the laws of this state or qualified to do business or conduct investment activity or registered as a foreign corporation or foreign limited partnership in this state with the consent of the other corporation, trade name, limited partnership or New Hampshire trust, which written consent shall be filed with the secretary of state.

Amend RSA 293-B:17, I as inserted by section 1 of the bill by replacing it with the following:

I. Pursuant to an agreement of merger or consolidation, a New Hampshire trust may merge or consolidate with or into one or more New Hampshire trusts or other business or investment entities formed or organized or existing under the laws of the state of New Hampshire or any other state or the United States or any foreign country or other foreign jurisdiction, with such New Hampshire trust or other business or investment entity as the agreement shall provide being the surviving or resulting New Hampshire trust or other business or investment entity. Unless otherwise provided in the governing instrument of a New Hampshire trust, a merger or consolidation shall be approved by each New Hampshire trust which is to merge or consolidate by all of the trustees and the beneficial owners of such New Hampshire trust. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a New Hampshire trust or other business or investment entity which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting New Hampshire trust or other business or investment entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interest in, a New Hampshire trust or other business or investment entity which is not the surviving or resulting New Hampshire trust or other business or investment entity in the merger or consolidation. Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision of such termination or amendment contained in the agreement of merger or consolidation.

Amend RSA 77:4, V as inserted by section 8 of the bill by replacing it with the following:



V. For each holder of an ownership interest in an exempt qualified investment company as defined in RSA 77-A:1, XXII, which holder is subject to tax under RSA 77, the holder's proportional share of the income, less any income attributable to United States government notes or bonds, of such exempt qualified investment company shall be treated as a dividend; however, notwithstanding any other provision of RSA 77, no actual distribution made to such holder by such exempt qualified investment company shall be taxable under RSA 77.

Amend RSA 77-A:1, XXI as inserted by section 11 of the bill by replacing it with the following:

XXI. "Qualified investment company" means a regulated investment company as defined in section 851 of the United States Internal Revenue Code as defined in RSA 77-A:1, XX, or an organization that would be an investment company under the Investment Company Act of 1940, as amended, except for the exemption provided by section 3(c)(1) of said Investment Company Act, provided, however, a qualified investment company shall limit its activities to investment activities and those incidental to or in support of such activities.

Amend the bill by replacing all after section 11 with the following:

12 New Paragraphs; Additions and Deductions; Business Profits Tax. Amend RSA 77-A:4 by inserting after paragraph XIV the following new paragraphs:

XV. In the case of a business organization that is a holder of an ownership interest in an exempt qualified investment company as defined in RSA 77-A:1, XXII, an addition to gross business profits of an amount equal to the holder's proportional share of taxable business profits of the exempt qualified investment company, computed as if the exempt qualified investment company were a business organization. Such a holder shall deduct from gross business profits that portion of actual distributions made to such holder by such an exempt qualified investment company that would otherwise be part of taxable business profits.

XVI. In the case of a business organization that receives assistance payments under 12 U.S.C. section 1823, a deduction from gross business profits of an amount equal to the sum of such assistance.

13 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill gives statutory recognition to and clarifies the treatment of business and investment trusts. At present, business and investment trusts are recognized only under New Hampshire common law. A business and investment trust is an organization which contains features of both partnership and corporate structures. It is managed

by a trustee or trustees for the benefit of holders of interests in the trust. It is formed by the voluntary act of the parties and is based upon contract.

The secretary of state will oversee the certification of such trusts in New Hampshire and will collect all filing fees relevant to such certification.

This bill clarifies the tax treatment of certain qualified investment companies, as defined in this bill, and of holders of ownership interests in such qualified investment companies. This bill makes it clear that income will not be taxed at the entity level, but rather will be taxed at the true ownership level.

This bill also clarifies that for purposes of the interest and dividends tax and the business profits tax, certain qualified investment companies will not be taxed at the entity level; rather, holders of ownership interests in such investment companies who would otherwise be subject to the interest and dividends tax or the business profits tax are taxed on their proportional shares of the entity's income, as defined in this bill.

These proportional shares will be taxed regardless of whether the entity makes an actual distribution to the holder of the ownership interest.

The bill limits the activities of qualified investment companies to investment activities and clarifies the treatment, under the business profits tax, of business organizations receiving open bank assistance payments.

Amendment Adopted.

Ordered To Third Reading.

**SB 114-FN**, an act requiring a report on certain water laws. Environment committee. Ought To Pass With Amendment. Senator Oleson for the committee.

**SENATOR OLESON:** What this bill tries to do, as most of you remember, at one time water resources had control and certain responsibilities over some property here in New Hampshire. Then they tried to reorganize and make things more practical. They tried to move some of these responsibilities by legislation over into the Environmental Services; however, evidently their legislation wasn't quite clear and even the courts had a hard time deciding where these responsibilities lie, whether they were transferred or whether they weren't. At the hearing, both departments wanted this bill to pass to try and clarify where the responsibilities lie. Now, also the bill says O.K., it will be under the Environmental Services, but if there is still any conflict within these transfers of power and one thing or another, that they will report back to the Governor, Speaker of the



House, and the President of the Senate, due to develop further education to finally settle this question once and for all. I would hope that the Senate would pass this bill and speed it along its way as soon as possible.

### **Amendment to SB 114-FN**

Amend the bill by replacing section 1 with the following:

1 New Paragraph; Report Required. Amend 1986, 202:2 by inserting after paragraph V the following new paragraph:

VI. The commissioner of the department of environmental services shall identify any conflicts between the provisions of the laws governing the water resources division of the department of environmental services and the provisions of paragraph V and shall present a report detailing any such conflicts, together with any proposed remedial legislation, if necessary, to the governor, the president of the senate, and the speaker of the house not later than September 30, 1991.

Amendment Adopted.

Ordered To Third Reading.

**SB 69-FN**, an act relative to certification of professional counselors. Executive Departments committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: If this bill looks familiar to you, it is because we have had it for four years running now. Finally, we have gotten to the point where there is general agreement on all of the issues and no major opposition to this bill, that does nothing more than certify professional counselors and doesn't restrict the profession.

### **Amendment to SB 69-FN**

Amend RSA 330-C:2, I as inserted by section 2 of the bill by replacing it with the following:

I. Any person who teaches, lectures or engages in research in counseling.

Amend RSA 330-C:2, IX as inserted by section 2 of the bill by replacing it with the following:

IX. The work of uncertified counselors, staff counselors, and religious counselors, provided they perform counseling services consistent with the laws of this state and do not represent themselves as certified professional counselors.

Amend RSA 330-C:7, I as inserted by section 2 of the bill by replacing it with the following:

I. Examine, issue, renew, deny, suspend, or revoke certificates to engage in the practice of certified professional counseling.

Amend RSA 330-C:7, VI as inserted by section 2 of the bill by replacing it with the following:

VI. Appoint an examiner to determine the eligibility of applicants for a certificate to engage in the practice of certified professional counseling.

Amend RSA 330-C:9 as inserted by section 2 of the bill by replacing it with the following:

330-C:9 Rulemaking Authority.

I. The board shall adopt rules, pursuant to RSA 541-A, relative to:

(a) The application procedures for any certification issued under this chapter.

(b) The equivalency requirements that may be substituted for those requirements set by RSA 330-C:10 for certification as a professional counselor.

(c) Design and content of all forms required under this chapter.

(d) The procedure for examination of an applicant, including:

(1) Time and place of examination.

(2) The passing grade.

(3) Disposition of examination papers.

(e) Fees for application, certification, and renewal of certification by the board.

(f) Certificate renewal requirements not to exceed the original requirements of RSA 330-C:10.

(g) Ethical standards required to be met by all holders of any certification under this chapter and how such certification may be revoked for violation of these standards.

(h) The procedures for placing a person certified under this chapter on probation and for renewing and appealing such an order.

(i) The procedure for denial of an application for certification or for suspension or revocation of certification.

II. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

Amend RSA 330-C:10 as inserted by section 2 of the bill by replacing it with the following:

330-C:10 Qualifications Required of Applicants. To be eligible for a certificate to engage in the practice of certified professional counseling, an applicant shall:

I. Satisfy the board that he is of good moral character and merits the public trust.

II. Have earned a master's or doctorate degree from an accredited university or college with a concentration in the field of counseling or psychology or a closely related field such as human services, marriage and family counseling, psychology of religion, educational



psychology, pastoral counseling, psychology and clinical studies, guidance counseling, or social work. Degrees that may be recognized include, but shall not be limited to M.A., M.S., M.H.S., M.F.T., M.S.W., M.Div., Th.M., M.Ed., C.A.G.S., Ph.D., Psy.D., D.Min., Ed.D., or other closely related degrees or their equivalency.

III. Have completed at least 2 years of supervised professional counseling with a minimum of 100 hours of direct counseling supervision by a mental health professional holding a master's or doctorate as enumerated in paragraph II who has been in the practice of professional counseling for at least 3 years or by a certified professional counselor or certified psychologist or licensed psychiatrist.

IV. Have passed the standardized national certification examination in counseling developed by the National Board for the Certification of Counselors (N.B.C.C.), or the National Academy of Certified Clinical Mental Health Counselors (N.A.C.C.M.H.C.). The applicant shall choose the examination for which to sit. In no case shall any applicant be required to become a member of the N.B.C.C. or the N.A.C.C.M.H.C. to be eligible for examination.

Amend RSA 330-C:12 as inserted by section 2 of the bill by replacing it with the following:

330-C:12 Application and Certificate Fees; Duration of Certificate. Every application for a certificate to practice certified professional counseling shall be accompanied by a nonrefundable fee as determined in rules adopted by the board. Upon approval of the application by the board, the applicant shall be issued a certificate to practice professional counseling to be valid for 2 years and renewable in the month of July. The fee for renewal of any certificate shall be determined by the board.

Amend RSA 330-C:15, VIII as inserted by section 2 of the bill by replacing it with the following:

VIII. Has allowed his name or certificate issued under the provisions of this chapter to be used by or transferred to any other person or persons who are not certified under this chapter to perform certified counseling services.

Amend RSA 330-C:18, I as inserted by section 2 of the bill by replacing it with the following:

I. No certificate shall be suspended or revoked until after a hearing before the board, which shall be held in accordance with RSA 541-A, and upon written notice mailed to the certificate holder by certified or registered mail. However, when a notice of hearing is mailed to a certificate holder at the address shown in the records of the board and such a certificate holder fails to attend such hearing, the board may suspend his certificate without a hearing pending his attendance at such hearing. Upon the denial of an application for a certificate, the board shall grant a hearing to an applicant upon re-

ceipt of a request for a hearing made within 20 days after the applicant is notified of denial. A request for a hearing shall operate to stay or to suspend the execution of any order placing a person certified under this chapter on probation, suspension, or revocation of a certificate or denial of an application for a renewal certificate. The board shall have the power to require the attendance of witnesses and issue subpoenas duces tecum in the conduct of such hearing. If a certificate is revoked or suspended or an application is denied, no such certificate shall be issued to such former certificate holder or applicant for at least 6 months, or thereafter, except in the discretion of the board. The applicant or certificate holder may be heard in person or by counsel. The board shall notify the applicant or certified professional counselor of the time and place of the hearing. The board shall have the power to subpoena any person in this state, or document, record or other relevant evidence, and administer an oath to and take the testimony of any such person or cause his deposition to be taken.

Amendment Adopted.

Referred to Finance (Rule #24).

**SB 158**, an act relative to advanced registered nurse practitioners. Executive Departments committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: There has been a change in the federals DEA statutes that would otherwise cause some liability problems for doctors as well as nurse practitioners in the state of New Hampshire. This bill deals with that problem and allows nurse practitioners to continue as they currently do, with prescribing certain drugs that are already specified within a formulary and setting up a board that oversees that and acts as an advisory board. The committee urges your passage on SB 158.

### Amendment to SB 158

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Rulemaking; Board of Nursing. Amend RSA 326-B:4-a by inserting after paragraph XV the following new paragraph:

XVI. Prescriptive privileges of the board relative to RSA 326-B:10, IV(a).

2 When A.R.N.P. May Prescribe Drugs. RSA 326-B:10, II is repealed and reenacted to read as follows:



II. A registered nurse, legally recognized as an advanced registered nurse practitioner, may prescribe drugs including controlled substances. The prescribing of these drugs shall be from a formulary and within the scope of the A.R.N.P.'s practice as defined by the New Hampshire board of nursing based on usual and customary advanced nursing practice standards.

3 New Paragraphs; Advanced Registered Nurse Practitioners' Advisory Committee. Amend RSA 326-B:10 by inserting after paragraph III the following new paragraphs:

IV. There shall be a committee which shall serve to advise the board of nursing pertaining to the prescriptive privileges of the A.R.N.P.'s.

(a) The advisory committee shall consist of 8 members, as follows:

(1) One registered nurse member of the board of nursing as appointed by the board of nursing.

(2) Two physicians licensed in the state as appointed by the board of registration in medicine.

(3) Two pharmacists licensed in the state as appointed by the board of pharmacy.

(4) Two A.R.N.P.'s legally recognized as advanced registered nurse practitioners in the state by the board of nursing, as appointed by the board of nursing.

(5) One public member as appointed by the director of public health services.

(b) The advisory committee shall meet at least 3 times per year.

(c) Members of the advisory committee shall serve without compensation.

(d) Members of the advisory committee shall serve terms of 2 years and until a successor is appointed and qualified. Any vacancy on the advisory committee shall be filled for the remainder of the term by a person similarly qualified as the retiring member, as appointed by his respective board.

(e) Upon the failure of any board enumerated in RSA 326-B:10, IV(a) to nominate a person to fill a vacancy within 45 days of a vacancy on the advisory committee, the board of nursing shall appoint a person with the necessary qualifications to fill the vacancy.

(f) The registered nurse member of the board of nursing shall serve as chair of the advisory committee.

(g) A quorum shall consist of 4 advisory committee members in attendance at an advisory committee meeting.

(h) Any member of the advisory committee who has 2 unexcused absences from meetings of the advisory committee, whether regularly held or special, may be permanently removed from the advisory committee, at the discretion of the board of nursing.

(i) A true record of the advisory committee's official acts shall be made and preserved. The record shall be public.

(j) Members of the advisory committee shall enjoy the same rights from personal liability as enjoyed by other employees of the state for actions taken while acting pursuant to this chapter and in the course of their duties.

V. The advisory committee shall review and make recommendations to the board of nursing regarding A.R.N.P. prescriptive practice and the formulary.

4 Continuance of Existing Formulary. The formulary presently implemented by the board of nursing and administered by any advanced registered nurse practitioner shall remain in effect until the advisory committee established pursuant to RSA 326-B:10, IV convenes and issues a decision on the formulary to be adopted by the board of nursing.

5 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes an 8-member advanced registered nurse practitioners' advisory committee to advise the New Hampshire board of nursing. It also authorizes any advanced registered nurse practitioner to prescribe drugs, including controlled substances, which are within the scope of such nurse practitioner's practice.

Amendment Adopted.

Ordered To Third Reading.

**SB 87**, an act relative to replacement employees. Insurance committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill amends the procedure under the replacement employee statute to change the penalty from a criminal penalty to a civil penalty assessed by the Department of Labor. It streamlines the procedure and gives the Department of Labor more control over the process and decriminalizes it also. The amendment to the bill corrects some of the problems in the language of the original bill which is on page 17, and the committee would urge your support of passage as amended.



**Amendment to SB 87-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 Reference Addition. Amend RSA 273:11-b, I to read as follows:

I. There is hereby created a penalty appeal board which shall hear appeals from penalties imposed by the commissioner pursuant to RSA 273:11-a **and RSA 275-A:5.**

2 Penalty Changed. Amend RSA 275-A:5 to read as follows:

275-A:5 Penalties. Any person, partnership, agency, firm, or corporation violating any provision of RSA 275-A [is guilty of an offense, and each day's continuance of this infraction is considered a separate offense and he shall be guilty of a misdemeanor for each such offense] **shall be subject to a civil penalty of up to \$1,000 for each day of noncompliance, to be imposed by the labor commissioner in accordance with the procedures established in RSA 273:11-a. Any person aggrieved by the commissioner's assessment of such penalty may appeal in accordance with RSA 273:11-b.**

3 Effective Date. This act shall take effect January 1, 1992.

**AMENDED ANALYSIS**

This bill changes the penalty from a criminal penalty to a civil penalty for violations of RSA 275-A relative to employee job protection.

Amendment Adopted.

Ordered To Third Reading.

**SB 211**, an act to include probation and parole officers in group II of the New Hampshire retirement system. Insurance committee. Inexpedient To Legislate. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill is a bill that I understand has been before the body before to put probation and parole officers into Group II and I think it was the opinion of the committee that it is a bill that might have a good idea, but it is coming at the wrong time. We just went through the struggle with HB 51 concerning the retirement system, we have set up a study committee to study the whole retirement system and the committee felt that it wasn't the right time to go tinkering with the existing retirement system until we study the whole system and find out where we are, because there could be some major problems with the system. Before the vote I checked with certain members who might be effected by this bill and I was told that there are no probation and parole officers right now who have 20 years of service in or are within several years of having 20 years service in, so there is really no one who would really be directly effected if we waited a few years for this.

Committee Report Adopted.

Senator Pressly (Rule #42).

**SB 215**, an act relative to a minimum retirement allowance of certain retired teachers. Insurance committee. Inexpedient To Legislate. Senator Delahunty for the committee.

SENATOR DELAHUNTY: 215, relative to a minimum retirement allowance of certain retired teachers. This bill provided that the base be time-allowance on a retired teacher member which affected approximately 1 to 24 people that retired on or before July 1, 1990 and retired on the service vested deferred, or disability retirement allowance with at least 20 years creditable service as a retirement system member shall not be less than \$5,000 per year. As you know we recently passed SB 51, relative to the retirement system and set up a study committee to study and review the retirement system this summer and get back to us before next session. And pending the results of that study committee, the committee did not want to add any more to the system until we see the results. Therefore, we urge your support of the committee recommendation of Inexpedient to Legislate.

Committee Report Adopted.

**SB 221-FN**, an act relative to discount car insurance rates for the elderly. Insurance committee. Inexpedient To Legislate. Senator Russman for the committee.

SENATOR RUSSMAN: Yes, with regard to this bill the committee unanimously voted it Inexpedient to Legislate. There was feeling that the industry itself is already offering in certain instances, programs such as this, and there is also a study, I believe, ongoing with the industry, the Insurance industry, to offer this on a potentially broader scope for all drivers and not only elderly people, if they complete a course successfully. And they felt that this would also raise the rates for everybody else that drives cars. So we felt that it was unnecessary at this time.

Committee Report Adopted.

**SB 26-FN**, an act relative to licenses to carry firearms. Judiciary committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: Originally the police chiefs came in on this bill. They felt that people that had handgun licenses, license to carry a concealed weapon ought to have photo IDs, or have made into photo IDs and that was found to be impractical for some of the small



towns that didn't have laminating equipment. And then the issue came around whether or not there should be photo IDs required and then the gun owners came to a compromise in the amendment whereby they would agree to carry their passport or driver's license or a photographic identity card, but at the same time, and we agree with this, that they could show that within 48 hours after being asked, so if they happen to forget that, they have their driver's license with them or their passport or what have you, they would have the opportunity to go home and get it within 48 hours and show it to the officer and they wouldn't be charged. So with the amendment, it was Ought to Pass.

### **Amendment to SB 26-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 Licenses to Carry Firearms. Amend RSA 159:6 to read as follows:

#### **159:6 License to Carry; Penalty.**

**I.** The selectmen of a town or the mayor or chief of police of a city or some full-time police officer designated by them respectively, upon application of any resident of said town or city, or the director of state police, or some person designated by him, upon application of a nonresident, shall issue a license to such applicant authorizing him to carry a loaded pistol or revolver in this state for not more than 2 years from the date of issue, if it appears that the applicant has good reason to fear injury to his person or property or has any proper purpose, and that he is a suitable person to be licensed. Hunting or target shooting shall be considered a proper purpose.

**II.** The license shall be in duplicate and shall bear the name, address, description and signature of the licensee. The original thereof shall be delivered to the licensee and the duplicate shall be preserved by the people issuing the same for 2 years. The license shall be issued within 14 days after application therefor, and, if such application is denied, the reason for such denial shall be stated in writing, the original of which such writing shall be delivered to the applicant, and a copy thereof kept in the office of the person to whom the application was made. The fee for licenses issued to residents of the state shall be \$4, which fee shall be for the use of the law enforcement department of the town granting said licenses; the fee for licenses granted to out-of-state residents shall be \$10, which fee shall be for the use of the state. The director of state police is hereby authorized and directed to prepare forms for the licenses required under this chapter and to supply the same to officials of the cities and towns authorized to issue said licenses. The cost of said forms shall be paid out of the fees received from nonresident licenses.

III. A person licensed under this section shall carry his license upon his person along with any one of the following 3 forms of photographic identification:

(a) A passport;

(b) A driver's license; or

(c) A photographic identity card issued by the department of safety;

whenever he is carrying a loaded pistol or revolver or he shall be guilty of a violation. No person charged with a violation of this section shall be convicted if, within a period of 48 hours, he produces in the office of the summoning officer evidence that he held a valid license which was in effect at the time of his summons.

2 Effective Date. This act shall take effect January 1, 1992.

### AMENDED ANALYSIS

This bill requires a person licensed to carry a loaded pistol or revolver to carry such license, along with a form of photo identification, whenever he is carrying a loaded pistol or revolver.

Amendment Adopted.

Ordered To Third Reading.

**SB 50**, an act relative to removal of motor vehicle registrations. Judiciary committee. Inexpedient To Legislate. Senator Podles for the committee.

SENATOR PODLES: SB 50 permits any police officer to remove any car registrations from any person who continues to operate his car after his license has been revoked and suspended, and to tow the vehicle. There was a lot of opposition on this bill and what they said is that it would greatly overburden the system. The committee recommends Inexpedient to Legislate.

Committee Report Adopted.

Recess.

Out of recess.

Senator Fraser in the Chair.

**SB 73-FN**, an act relative to motor vehicle plates and registrations. Transportation committee. Inexpedient To Legislate. Senator Nelson for the committee.

SENATOR NELSON: This bill has the concept and the same material in it as did SB 191 which was passed out of Transportation. The first three sections, the forth section contained, wanted to have a



part for designation for placement on hardship plates, which would conspicuously designate the plates. The committee voted 5 to 0 and felt that at this time, that was not the time to go.

### SUBSTITUTE MOTION

Senator Heath moved to substitute Ought To Pass for Inexpedient To Legislate.

SENATOR HEATH: I won't belabor this point. I appreciate the committees work in moving most of that language onto another piece of legislation and a lot will be accomplished by that. The one thing that is missing is, the one thing that they didn't move over is the hardship plate language. If you look at your court news in your local papers, you will see that a high percentage of people who were in court are driving after a revocation. The designation the obvious designation, of hardship plates, allows a policeman on patrol to see and identify for the purposes of looking closer at the individual to see if the person who is under revocation is driving the car instead of the person who got the hardship plate. The intent of that is because if a person has lost their license for DWI, he's under really no compunction not to get into any available car, and the available car is usually the car that his or her spouse uses and that's the purpose of having a hardship plate. The purpose of having an obvious designation for police, it could be odd and even numbers, it doesn't need to be a big red plate. But to give them the opportunity to be alerted to the fact that that very well may, and I think the percentages beared out, very well may be a person who is an habitual drunk driver and it could be a member of your family or yourself, or your children, or your parents, that become the victim and this is really just really one more way of getting rid of the drunk drivers that are killing people like Lacy Packard, day after day, after day. This is a get tough bill and I would urge you to pass this on and let the House know that we stand behind getting these people off the road, not just taking their licenses, but getting them off the road: this will help.

SENATOR NELSON: I rise in strong opposition to the motion on the floor. As I stated earlier, three parts of this bill were passed already in SB 191 which dealt with revocation and default. Not only did we do that, but we set up a special fund which is almost unheard of, a special fund so that the Commissioner of Safety can hire personnel and purchase equipment. I want to commend them on 191, because that was a good thing. Secondly, I would like to say the reason that the committee vote was 5 - 0 on the hardship plates because although we appreciate the hard work and effort that was done, the goal that they want to achieve is commendable and should

be done, we should not have drunk drivers on the road. They should be penalized if they commit the crime, they shouldn't be allowed to walk, let alone drive in some instances. But the fact of the matter remains, my colleagues, is this; if we are going to earmark a plate for one family that states, that has letters on it that indicates that someone in the family is an habitual offender, and the young son who is also a male decides to drive that car, and excuse me, but a woman with a short haircut or a relative, or a neighbor are out on business, the sense of the committee was that this was not the way to achieve that purpose and we voted against that bill.

SENATOR HEATH: Senator Nelson, don't you think that one of the greatest victims of any drunk driver is the family?

SENATOR NELSON: I do.

SENATOR HEATH: Senator Nelson, do you think that in weighing the possibilities of the embarrassment of some of the families of the drunk driver over the potential death of somebody in that family or somebody in another family that the potential for embarrassment is a greater hazard to society than the potential for death?

SENATOR NELSON: Not necessarily, but I'm not saying that the ends justify the means or the means justify the ends or by putting a plate on a car that marks the individual as an habitual offender is going to correct what you want to correct. When in Nashua over the weekend, three victims were burned beyond recognition and the driver severely impaired even though there are laws on the book that says that you should not drink and drive and you should have a designated driver. I'm just suggesting that the goal that you want to achieve will not be accomplished by this, and people will be hurt by it, and nothing will be gained.

SENATOR PODLES: I also rise in opposition to the motion on the floor and I would like to call your attention to the methodology on this bill which reads; the department states that the system is in place to check the record of driver license applicants new to the state; however, the system would have to be extended to cover 1.5 million record checks on registration as this bill provides. And Senator Heath, some of the provisions of your bill have already been included in another bill.

SENATOR RUSSMAN: I also would rise and ask that you vote against the substitute motion. I think that as a practical matter to put the family through additional embarrassment and the children of that family, and it won't take long that the kids happen to take the car to school, for everybody to figure out about that, and I can imagine the belittling and remarks that would be put upon that family as



a result of activities and actions by the person who had broken the law. I don't think that that is anybody's intention here and I don't think that that is going to do anything to eliminate the problem and I would urge you to vote no on the substitute amendment.

SENATOR COLANTUONO: The question of the Alpha Numeric Designation goes beyond what was the basic policy question that we had to first address, which is whether we should even give a hardship plate to the family of a drunk driver who hasn't paid his fine. We have to remember that this only applies to people who have defaulted in the payment of a fine, not simply people who have been convicted and paid the fine. This would only come into place if they have defaulted. It was the thought of the committee that we shouldn't even give a hardship plate in that situation because the fines are normally only \$300 to \$400. It would be more of an incentive to get the fine paid if we didn't even give the hardship plate in the first place, and that's the real reason why we recommended Inexpedient to Legislate. I think that that is a good policy reason. We have to get these fines paid.

SENATOR NELSON: Senator Podles, would you believe that in SB 191 that was passed out of Transportation and then passed on this Senate floor, we did in support of Senator Colantuono's remarks, we did say in IV, no license or driving privilege or plates suspended or revoked under this section shall be reinstated before the expiration of any other period of suspension or revocation in effect. Would you believe that in support of what Senator Colantuono said that we already passed that legislation?

SENATOR PODLES: Yes, I do.

Substitute motion of Ought To Pass fails.

Committee Report of Inexpedient to Legislate is adopted.

**SB 91**, an act relative to disclosure of discoverable materials and product liability actions. Judiciary committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: Originally this bill was much more comprehensive. We took out a lot of the language and basically left it such that if there is indeed an unsafe product, that the, if the information comes within one of the agencies regulating it — law enforcements, regulatory, judicial body, or legislative — that that information can then be passed out without. Also assuming that it would not violate any trade secrets, but the issue is here whether or not we are going to let people know that there is indeed a product that is not safe and hopefully by getting that information out to the public, the industry

would see that their product was redesigned and remade into a safer product for the consumers. So with that opportunity, the committee made it Ought to Pass with Amendment.

### **Amendment to SB 91**

Amend RSA 507:8-h as inserted by section 1 of the bill by replacing it with the following:

507:8-h Discoverability of Information in Product Liability Actions.

I. In this section, "product liability action" means any action brought for or on account of personal injury, death or property damage or other damage caused by or resulting from the development, manufacture, construction, design, formula, preparation, assembly, testing, warning, instructing, advertising, marketing, certifying, packaging, or labeling of any product. The term includes all such actions regardless of the legal theory relied upon, whether strict liability in tort, negligence, breach of warranty, breach of or failure to discharge a duty to warn or instruct, misrepresentation, concealment, nondisclosure or any other theory whatsoever.

II. No court shall enter an order in a product liability action involving a product distributed in commerce that forbids any person from making any document or other information which is obtained in discovery and which is reasonably related to design specifications, performance standards, warranties, warnings and instructions or any other matter related to the safety of any product distributed in commerce available to a federal, state or local regulatory agency, law enforcement agency or legislative or judicial body if the agency or body has regulatory, law enforcement, legislative, or adjudicative responsibility with respect to the product and if the agency or body states in writing to such person before such document or information is made available that it has procedures in place to prevent that unauthorized disclosure to the public of trade secret information.

### **AMENDED ANALYSIS**

This bill permits greater discoverability of documents and information by parties to product liability actions.

Amendment Adopted.

Ordered To Third Reading.

**SB 95-FN**, an act relative to parole of delinquents. Judiciary committee. Inexpedient To Legislate. Senator Podles for the committee.

**SENATOR PODLES:** SB-95 would eliminate the juvenile parole board and transfer all responsibilities to DCYS. The present board which is basically an oversight committee, is working well. We just



felt that DCYS would be taking on too much responsibility without having any kind of system in place, in fact, DCYS has come in and asked us to make this Inexpedient, and so what this is, is what the committee recommends.

Committee Report Adopted.

**SB 105-FN**, an act relative to scam telephone sales calls. Judiciary committee. Inexpedient To Legislate. Senator Russman for the committee.

**SENATOR RUSSMAN:** We heard from people from the AG's office and others on this. There are some staffing problems over at the AG's office, although it was pointed out that PUC is dealing with this, or is attempting to deal with it at this time and trying to develop some guidelines and things of that nature. The scam telephone problem is a serious one and I think that hopefully during the next session, there will be a bill or PUC regulations passed that would tend to deal with that and that is the reason for the vote by the committee.

Committee Report Adopted.

**SB 113-FN**, an act relative to justification of the use of physical force as a defense in actions alleging the abuse or neglect of a child. Judiciary committee. Inexpedient To Legislate. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill would have changed the provisions in the criminal code for the justification of using force by a parent on a minor in cases where the parent believed that it was necessary to punish misconduct and so forth, which we have had since 1971. The committee felt that this bill went way too far and left a standard that wasn't very clear for the courts to interpret and would have caused a lot of problems. There was tremendous opposition to this bill and the committee recommended therefore that it was Inexpedient to Legislate.

Committee Report Adopted.

**SB 166-FN**, an act permitting towns and cities to recover costs of investigations and prosecutions. Judiciary committee. Inexpedient To Legislate. Senator Russman for the committee.

**SENATOR RUSSMAN:** This bill was voted Inexpedient to Legislate essentially because we felt that it was a rather totally unworkable bill. While well intentioned, the idea of trying to come up with a billable hourly rate for investigations in terms of whether it was a sergeant, or lieutenant, and all these things. The courts are having a

hard enough time collecting the fines and trying to civilly collect prosecution type investigation monies would be an impossible situation and the committee unanimously voted Inexpedient to Legislate.

Committee Report Adopted.

**SB 209-FN**, an act relative to issuance of a notice or citation by the probate court to a court-appointed fiduciary for failure to file an inventory or an account of administration and to requirements for notice to beneficiaries. Judiciary committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN:** This bill essentially is a response to the Fairbanks case, in which all the money was taken and basically requires the probate court to send out notices and citations, not just to the attorney involved, but to the legacies and families so that they would put pressure on the attorney to be sure that the accounts were timely filed. The present law in theory, if it was enforced properly, should suffice but this certainly will add an extra measure to make sure that the counselor filed properly and in a timely fashion and that we don't see the Fairbanks type case up here again.

Adopted.

Ordered To Third Reading.

**SCR 3**, a resolution urging the New Hampshire supreme court to give preferred status to appeals of adoptions. Ought To Pass. Senator Podles for the committee.

**SENATOR PODLES:** Mr. President, SCR 3 urges the New Hampshire Supreme Court to give priority to all appeals in cases of adoption decrees. Permanency for the child is the ultimate goal and any delay in this regard can be detrimental to the overall being of the child. The legal issue surrounding the termination of these rights including appeals can sometimes take up to four years while the child remains in the care of the state. The committee feels that the Supreme Court should make a decision just as the probate and district courts do, and should do so in time, certain. The Supreme Court can sit on it for 1-½ years, and all the while all these cases have gone to appeal and no adjudication is rendered for a long time. The committee recommends Ought to Pass.

Adopted.

Ordered To Third Reading.

Recess.

Out of recess.



President Dupont in the Chair.

**SB 108-FN**, an act relative to the definition of bulk power supply facilities. Public Affairs committee. Inexpedient To Legislate. Senator W. King for the committee.

**SENATOR W. KING:** SB 108-FN deals with an issue that as you know, Mr. President, this Senate as well as the House of Representatives and other members of the Bulk Power Supply committee have been working on diligently over the last year. There is a bill that has been in the House right now that was put together by a special legislative committee and that bill will give us the appropriate vehicle if we decide that there needs to be a change on this issue and we are discussing it further in committee, but we see no need to hold onto this bill and there was a unanimous vote on it.

Committee Report Adopted.

**SB 74-FN**, relative to catastrophic illness care costs. Public Institutions, Health & Human Services committee. Ought To Pass With Amendment. Senator J. King for the committee.

**SENATOR J. KING:** This bill was brought before our committee and it was a little turf battle or financial money battle between the medicare and the human services and the Vocational Rehabilitation and Education as to who was to pay for some of the bills. And some of the Vocational Rehab they were paying for, some of the catastrophic illnesses, which they didn't think that they should be paying for and it should be Medicaid. And I guess there were so many others involved outside both agencies, and one said that they couldn't do it and the other one said that they were going to go out of business practically, if they didn't get the thing changed. So a committee was set up to study it and report back by November 1 as to what they do now, how they arrive at who pays, and come up with some good suggestions, hopefully. The amendment was the committee setup.

#### **Amendment to SB 74-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study the use of funds  
appropriated for catastrophic illness care.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Membership; Report.

I. There is established a committee to study the use of funds appropriated for catastrophic illness care and the methods of distribution of such funds. The membership of the committee shall be as follows:

- (a) Two senators, appointed by the president of the senate.
- (b) Two representatives, appointed by the speaker of the house.
- (c) The commissioner of education, or designee.
- (d) The commissioner of health and human services, or designee.
- (e) The director of the division of human services.
- (f) The director of the division of vocational rehabilitation.

II. The committee shall study the use of funds appropriated for the cost of catastrophic illness care, the current method of distributing such funds, and which department or division is responsible for payment. The committee shall submit its report, together with recommendations for legislation, if necessary, to the president of the senate and the speaker of the house of representatives no later than November 1, 1991.

2 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a legislative committee to study the use of funds appropriated for the cost of catastrophic illness care and the method of distributing such funds. The committee is to submit a report to the President of the Senate and the Speaker of the House no later than November 1, 1991.

Amendment Adopted.

Ordered To Third Reading.

**SB 125-FN**, relative to child abuse and neglect proceedings. Public Institutions, Health & Human Services committee. Ought To Pass With Amendment. Senator Podles for the committee.

**SENATOR PODLES:** SB 125 does not change anything in the law. All it does is it gives out information to the people to understand the rules. Actually it was a result of the study committee of the Senate Select Committee on Child Abuse and Neglect. Procedures and rules are very different in court for children than adults. When they enter the district court, a defendant in a child abuse neglect case is given 18 months in which to prove to the court that they have made significant changes in their behavior so as to warrant a return of their child into their custody.



Under present law when this 18 month period has concluded and the parents are still deemed unfit, termination proceedings are begun. Many parents don't realize the seriousness of the district court proceedings and therefor do not always make the greatest effort to cooperate with DCYS during this time. We were told that a lot of these parents may have just had an eighth grade education, so they just don't understand it, so in testimony before the committee, it was suggested that the parents be provided with a disclosure form which SB 125 requires. It will completely outline the situation during the 18 months to follow, what is expected of them, what they can expect from the state, and the consequences, should they fail to make necessary changes in their life. All of this is to be made a part of this disclosure and should be understood by the parent upon commencement of the district court proceedings. The committee felt that by providing the parents with this information, it was hoped that some will be more fully, would fully cooperate with the request of the division so that the child may ultimately be returned to the family. The amendment on page, I don't know what it is, but anyway, it requires also a statement of the parents rights of that person. The committee recommends Ought to Pass with amendment.

#### **Amendment to SB 125-FN**

Amend RSA 169-C:8, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The summons shall also contain a description and explanation of the proceedings and a statement of the rights of the person or persons summoned, under this chapter, RSA 170-C, and under the rules of court.

#### **AMENDED ANALYSIS**

This bill requires the summons in a child protection act matter to contain a description and explanation of the proceedings and a statement of the rights of the person or persons summoned under RSA 169-C, RSA 170-C and under the rules of court.

Amendment Adopted.

Ordered To Third Reading.

**SB 159-FN**, relative to posting of public documents in licensed health facilities. Public Institutions, Health & Human Services committee. Ought To Pass With Amendment. Senator J. King for the committee.

**SENATOR J. KING:** This bill deals with, because of the new addition certificate of occupancy some facilities could have been there for

40 years, so the amendment only says any newly licensed facilities. We will have to put the occupancy certificate up, and Ought to Pass with Amendment. Thank you.

### **Amendment to SB 159-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to posting of public documents in licensed health facilities and health care facilities.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The general court finds that all licensed health facilities and health care facilities should be publicly accountable. Public documents issued to health facilities and health care facilities include certificates of occupancy; certificates showing compliance with health, building, zoning and fire safety regulations; and state licensing documents. These documents sometimes contain inconsistencies, and these inconsistencies should be available for the public to see. This act requires that such documents be posted together so as to provide public accountability of such facilities.

2 New Section; Posting of Public Documents. Amend RSA 151 by inserting after section 6-a the following new section:

151:6-b Posting of Public Documents. In addition to the posting requirements of RSA 151:5 and RSA 151:6-a, every facility newly licensed under this chapter shall post together and conspicuously in all licensed buildings and licensed parts of buildings:

I. The license under RSA 151:5;

II. The annual inspection results under RSA 151:6-a; and

III. The certificate of occupancy.

3 Effective Date. This act shall take effect 60 days after its passage.

### **AMENDED ANALYSIS**

This bill requires licensed health facilities and health care facilities to post their licenses, annual inspection reports, and certificates of occupancy together in conspicuous places in all licensed building and licensed parts of buildings. The purpose of such posting is to provide public accountability of such facilities and to show any inconsistencies in the documents.

Amendment Adopted.

Ordered To Third Reading.



**SB 171-FN**, prohibiting discrimination on the basis of smoking. Public Institutions, Health & Human Services committee. Ought To Pass With Amendment. Senator Oleson.

**SENATOR OLESON:** SB 171 says exactly what it says, no more and no less. I thought this period and time an employer could not tell what people did in their own home, but evidently that isn't quite true because some of the agencies here get as many as six calls a day that people are threatened with their jobs if they don't abide by the rules, smoking outside their place of employment. According to the Counsel and the State Governments this is supposed to be model legislation. All I can repeat again is, that the days when the employer could dictate what you could do outside the place of employment evidently is over and this does protect the rights for people. Thank you very much, Mr. President.

**SENATOR HUMPHREY:** If an employer concludes that an applicant who smokes is likely to have a poorer record of attendance than someone who doesn't smoke, is that employer by this bill precluded from discriminating on that basis?

**SENATOR OLESON:** Not that I know of. As I understand it, if you are an employee and working for any company, you can be threatened, because smoking at home or in your car or whatever, then you can lose your employment.

**SENATOR HUMPHREY:** How does this bill preclude an employer from discriminating against an applicant on the basis that he believes that applicant who is a smoker will not have an attendance record as good as that of someone who does not smoke?

**SENATOR OLESON:** I believe, Senator Humphrey, I am an employer and somebody applies for the job, I doubt very much that this would ever enter their attention.

**SENATOR HUMPHREY:** Supposing an employer concludes this, for example, this employer has concluded when he employed 30 staff in Washington paid for by the grace of the taxpayers that smokers make life unpleasant for fellow workers. Would an employer in New Hampshire who reaches that conclusion and he decides not to hire a smoker based on the best interest of the other persons working in that place of employment? Would he be in trouble under this law?

**SENATOR OLESON:** I do not believe so.

**SENATOR HEATH:** Senator Humphrey, is the point of your question that an employer ought to be able to not hire somebody who had a likelihood of having an attendance problem?

SENATOR HUMPHREY: In the case of someone whose behavior . . . I know what the Senator's getting at, and I don't want to be led down that path. Does that answer your question?

SENATOR HEATH: Would you . . .

SENATOR HUMPHREY: You can put me in jail, I'm not hiring somebody that smokes, how do you like that?

SENATOR HEATH: Well I guess we've got the root of it.

SENATOR HUMPHREY: I think that this is an unreasonable bill.

SENATOR HEATH: Senator, where I was going to go was if you also would apply that standard to an employer of not hiring somebody in the National Guard because there was a likelihood that they would miss some work. I wondered where your standards . . .

SENATOR HUMPHREY: May I ask, may I respond by asking the Senator, is the Senator saying that an employer should not be able to protect the health of other employees from someone whose habit has been clearly documented as a threat to nonsmokers?

SENATOR HEATH: Senator, I'm shocked. I thought that you as an individualist believed that it was up to each individual to protect their own health in either work or not work in a place that allows smoking.

SENATOR HUMPHREY: Yes, Senator, but it's hard to hold your breath for more than five seconds.

SENATOR HEATH: I have never tried, have you?

SENATOR HUMPHREY: I will respond by saying, as the Senator knows it is utterly impossible for nonsmokers to protect themselves, you need only to walk through this lobby. For nonsmokers to protect themselves from smokers and many, many nonsmokers including children and people who don't have the option of removing themselves from the premises are suffering from lung disorders thanks to smokers.

SENATOR SHAHEEN: Senator Oleson, am I correct that this amendment would allow employers to set a workplace policy that prohibits smoking, while at the same time it would prohibit the employer for failing to hire somebody just because they might smoke at home. Did I make that clear?

SENATOR OLESON: What the amendment says, it says that the employer shall designate a smoking area where the employees can smoke. That is all it pertains to, this amendment. That is already in every employers rules at the present time and they abide by this



rule and regulation. But for anybody to go and apply to this employer, no doubt the employer can tell you and understand that this happen to me, that you do not smoke in the factory or where you happen to work. And that is part of the agreement when you work, but for the employer to say if you want to smoke at home, you can't be hired here, I think it's stupid. This is what this pertains to.

SENATOR CURRIER: I'm just a little concerned about some of the things that have just been said. First of all, Senator Humphrey, when you walked through that door, you should have called the Sheriff and had those people arrested, because they have violated state law for smoking in that room: that is not a designated smoking area in this building under current state statutes, O.K. Not according to that item that is posted in the elevator by the Joint Legislative committee. So, that's the law, O.K. So current law protects the work force, the workplace. We probably have one of the strongest smoking, anti-smoking laws on the books, dealing with restaurants, the work places and everything else. And remember, I smoke a pipe. I carry it in here, and then when I get outside I smoke it. But anyway, the point of this bill is that I don't think anybody should be discriminated because I do anything at home, never mind smoking, that's legal. One of the concerns that came out as a result of this bill was that everybody was concerned that it was a civil rights matter and they didn't want the human rights commission who is already well into four years backlogged with cases to get involved in this particular thing, so what we did is we put the code, and that's all the amendment does basically, is put the code in the unfair labor code, where it's a practice that if you, as an employer, can't discriminate against me as a smoker because I smoke at home. That is all it does.

SENATOR HUMPHREY: Senator Currier, you're saying then that an employer may not reach the reasonable conclusion that an applicant who smokes is likely to have a poorer attendance record and therefor ought not to be hired, is that what this law says and what the Senator says?

SENATOR CURRIER: I believe it does, Senator. However, there are other laws on the books, O.K. that deal with smoking in the workplace.

SENATOR HUMPHREY: Yes.

SENATOR CURRIER: There is strong . . .

SENATOR HUMPHREY: Yes, lets enforce them. But that isn't my question. My question, it's clearly documented that smoking whether you do it at home or in the workplace is harmful to one's health. An employer can reasonably conclude that someone who

smokes only at home, even someone who smokes only at home, is going to be a poorer risk than someone who doesn't smoke in terms of job performance and attendance, and this bill says that an employer under that circumstance, reaching that reasonable and well documented conclusion, cannot discriminate against such an applicant.

SENATOR CURRIER: Sir, if I believed in choice and changed my vote, on choice of education, would you support my choice of smoking or not smoking?

SENATOR HUMPHREY: No.

SENATOR COHEN: Senator Humphrey, are you suggesting that if someone is known to smoke at home, without having any knowledge of his or her actual working habits, you're suggesting that the employer could discriminate on the basis that they may possibly not have as good of an attendance record, without any proof of that?

SENATOR HUMPHREY: I am not suggesting it. I am saying it.

SENATOR BASS: Mr. President, I rise in support of the committee recommendation of Ought to Pass as Amended. There are many reasons why people may not be able to perform as well as they might on the job. Using Senator Humphrey's specific example of smoking. Smoking at home might cause one to develop a cough more often, it might cause one to be ill more often, but I would point out that there are other factors equally significant as that one. For example, if you don't dress properly and you go outside, you're likely to catch a cold, if you don't eat properly you're liable to be malnourished and you won't be able to perform as well on the job. If you eat too much you may become so obese that you cannot make it to the job. The point is that to use that example as a reason why we shouldn't vote for this bill, I think is unfair. The fact is, that individuals who smoke, not in the workplace, but outside the workplace in the privacy of their own homes or elsewhere, should not be discriminated against in the workplace for that reason, and for that reason, I urge the Senate to support the committee recommendation of Ought to Pass as Amended.

SENATOR HEATH: Senator Currier, would you believe that no less authorities than our Sergeant-of-Arms, and Emile, and our Chief of Staff, Arlene Burns, confirmed that that is a designated smoking area?

SENATOR CURRIER: Senator, then what is the notice posted in the elevator by the Joint Legislative fiscal or whatever the hell committee it is?



SENATOR HEATH: The notice there is to keep people like yourself from believing everything that you read.

SENATOR CURRIER: You lost me.

PRESIDENT DUPONT: In the defense of the Joint Legislative Facilities committee. This is for members only out here, and I assume that that is the reason why it was not posted as part of the public notice that is on the elevator.

SENATOR COLANTUONO: It's been a good, fun debate here, but this isn't it, this is a legitimate question and a serious matter, and I would just like to address it from the employers point of view. Senator Humphrey has mentioned attendance as one concern, but there could be a lot of other concerns and we have to stop and remember that this bill doesn't deal with the government, and governmental employers who we would have a right to control. This bill deals with all employers. We have to remember that we have a free enterprise system in this state and that the people who generate jobs in this state and generate our economy are the entrepreneurs and the employers who put their lives and their fortunes on the line to start businesses. And if we keep piling regulation upon regulation and tell people who to hire, when to hire, how to control their workplace, we are not going to get the entrepreneur spirit and the participation that we need. I think this is an unwarranted infringement upon the freedom of the employer, I think there is a civil rights issue, and I think the issue here has been turned around. I think that we should worry a little bit about the civil right of the employer, because in addition to the problem of attendance you do have the legitimate problem of illness, which Senator Bass mentioned. Because right now most employers provide health insurance and I don't think that we should tell an employer that they have to hire a smoker if they don't want to, because they're worried about the cost of health insurance and what type of illnesses smoking might cause, it would raise the rates and so forth. I think this bill goes too far, I think the fact that there is no exception for the small business person like federal statutes often do is a mistake. I think there is a question of esthetic involved here that no one has really addressed. If you have a small shop for example, and you have only one or two employees and you have customers coming in, and you have an employer who comes in every morning after smoking half a pack in the morning and smells like a cigarette factory the whole rest of the day, it's going to turn people off. And these are the things that we need to worry about. I think the bill goes way too far, I don't . . . the question always comes, why is this bill being introduced, what is the great harm going on right now? That hasn't been addressed. I think it's unneeded, it's

being pushed by tobacco companies, unfortunately, I think that is a big mistake. We all received a lot of letters on this a month or so ago as a result of a mailing from Philip Morris. I think it's a disgrace that tobacco companies who have wreaked so much havoc on this country are trying to control our public policy in the state of New Hampshire and I am going to vote against it and I am proud of it.

SENATOR OLESON: The point was made, why was this legislation brought to our attention. According to human rights commission stated that they're receiving between 4 and 6 calls per month from people who have been threatened with a job if they did not comply. All the bill is, are we going to regress back to the days that if you wanted to work somewhere you had to go to church on a Sunday. That was one of the requirements at the time. Are we going to regress to the day that the employer can dictate what you do at home. I think there is a need for legislation like this, I thought those days were over a long, long time ago, but evidently, they haven't and so I think it's up to the people in the state of New Hampshire to say that our people and you run out and you look at the license plate and it says "live free or die", so let's live free and make up your own decisions at home and not have the employer dictate to us.

Senator Delahunty has moved the question.

Adopted.

### **Amendment to SB 171-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to discrimination in the workplace.

Amend the bill by replacing all after the enacting clause with the following:

1 Discrimination Prohibited. Amend the subdivision heading preceding RSA 275:36 to read as follows:

#### **Discrimination [Between Sexes] in the Workplace**

2 New Section; Discrimination Prohibited. Amend RSA 275 by inserting after section 37 the following new section:

275:37-a Discrimination on Basis of Using Tobacco Products Prohibited. No employer shall require as a condition of employment that any employee or applicant for employment abstain from using tobacco products outside the course of employment, as long as the employee complies with any workplace policy, pursuant to RSA 155:51-53 and, when applicable, RSA 155:64-77.



3 Effective Date. This act shall take effect January 1, 1992.

### AMENDED ANALYSIS

This bill prohibits an employer from requiring, as a condition of employment, that a person abstain from using tobacco products outside of work, as long as such person complies with any workplace policy concerning such use.

A Roll Call was requested by Senator St. Jean.

Seconded by Senator Nelson.

Recess.

Out of recess.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Hough, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Podles, J. King, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Colantuono, Humphrey, Russman.

Yeas: 19

Nays: 3

Senator McLane not voting, excused.

Amendment Adopted.

Ordered To Third Reading.

**SB 172-FN-A**, relative to enhanced family care facilities and making an appropriation therefor. Public Institutions, Health & Human Services committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill essentially equals the rates paid to community residences and residential care. Residential care homes, shared homes, are places where elderly individuals go who may not be at the level of nursing home, but are not able to take care of themselves. Community residences are primarily for the same thing except for developmentally disabled individuals. There is a cost differential for reimbursement from the state. Residential care providers get \$640 a month, Community residents providers only get \$522 a month, the difference is \$118. What the bill seeks to do is to equalize that amount. The problem is that although it may be justified this would add a significant cost to the entire program, and it was felt by the committee after much discussion that this was not the time to deal with this particular question, so as a result, the distinguished Chairman of the committee suggested that this issue be further studied through a special committee, and I purpose that a special committee be established consisting of two individuals, the

Chairman of the Senate Public Institutions committee and the equivalent Chairperson in the House. I urge the Senates' adoption of the committee recommendation of Ought to Pass as Amended.

### **Amendment to SB 172-FN-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study the board and care rates for residents of enhanced family care facilities.

Amend the bill by replacing all after the enacting clause with the following:

#### **1 Committee Established; Membership; Report.**

I. There is established a committee to study the method of determining board and care rates for residents of enhanced family care facilities. The membership of the committee shall be as follows:

(a) The chairperson from the senate public institutions, health and human services committee.

(b) The chairperson from the house health, human services and elderly affairs committee.

II. The committee shall study the current method of determining board and care rates for residents of enhanced family care facilities and whether such rates should be increased. The committee shall submit its report, together with recommendations for legislation, if necessary, to the President of the Senate and the Speaker of the House of Representatives no later than November 1, 1991.

2 Effective Date. This act shall take effect 60 days after its passage.

### **AMENDED ANALYSIS**

This bill establishes a legislative committee to study the method of determining board and care rates for residents of enhanced family care facilities and whether such rates should be increased. The committee is to submit a report to the President of the Senate and the Speaker of the House no later than November 1, 1991.

Amendment Adopted.

Ordered To Third Reading.

**SB 173-FN-A**, relative to senior "meals on wheels" and senior transportation and making an appropriation therefor. Public Institutions, Health & Human Services committee. Ought To Pass. Senator Oleson for the committee.



SENATOR OLESON: This bill, SB 173 asks for an appropriation of of some \$600,000, split in two, \$300,000 for meals and \$300,000 for transportation, to be split in two years, so it calls for \$150,000 for the first year, and \$150,000 for the second year. The thing is at the present time during inflation and even with a level spending, it will still be called a car behind as far as giving the meals on wheels is concerned. Even if this bill should pass, the state would have to cut some \$3400 off meals in 1992 and another \$1100 - \$900 in the fiscal year 1993. However, I stress, I try to stress again, that without this appropriation there will be many needy people in our state, that will go without an efficient meal, and I urge the Senate to pass this bill.

SENATOR OLESON: Senator Oleson, I'm not speaking or asking you this question because I oppose or support the legislation, but don't you think that if a means test was applied to the meals on wheels program, that those people who can afford the real cost of transporting hot meals to their door could pay and perhaps even subsidize those who cannot, that this program would not be in the financial trouble as it is in today?

SENATOR OLESON: I'm trying, are you trying to suppose something that might happen, Senator, and I never can argue against something that might happen.

SENATOR DISNARD: Senator Heath, would you believe the meals delivered at home that you've referred to does have a means test. The meals that are provided on site do not have a means test by the federal regulations. The meals delivered at home do have a means test.

SENATOR HEATH: I guess that that was a question. It's my understanding that even on the ones that are provided at home that has the means test, that the cost does not, the highest level of that cost does not reflect an accurate cost of food and delivery, and I, what I was suggesting, is that it not only reflect that, maybe even a little more, to help pull up the people in a progressive way that can't afford it at all and to help pay for the program.

SENATOR DISNARD: Would you believe, Senator, that I realize that you understand there is some kind of means?

SENATOR HEATH: Yes I would.

SENATOR BASS: I rise in opposition to SB 173 and while I'm at it, although it is out of order, 177 as well. As a member of the committee on Public Institutions, Health and Human Services, my responsibilities on this committee have not been particularly enjoyable. There is no question about the fact that the money would be well

spent by the meals on wheels program, that people who need meals, and people who need transportation would get it, but the fact is, all we are really doing is restoring a budget cut that was recommended by the Governor in his State-of-the-State address in order to apply more pressure on the Senate Finance committee. If the money is there for this program, I certainly feel that Senate Finance committee will appropriate it, but I don't feel that I can stand up here and take the easy path from this very difficult issue, vote for this bill, send it to Senate Finance and then knowing right along that it isn't going to be part of the budget in the end. So as a result, I have to, in all honesty, although I believe that the program, the funds would be well applied, it isn't going to happen and I can't vote for this bill.

SENATOR SHAHEEN: It seems to me that we had this discussion several weeks ago, relative to whether we were going to try and set public policy in this Senate on the floor on some of these issues. And while I recognize some of the arguments that you are making, Senator Bass, it seems to me that it is important for us as a Senate, to say back to the Governor, and back to the Finance committee, and back to the House Appropriations, and whoever is trying to cut the budget in critical areas like meal on wheels, that we think that it is very important that that appropriation be kept in there. With that in mind, I intend to vote in favor of this legislation and I hope that everyone will join me in that.

SENATOR HUMPHREY: Mr. President, we all recognize that we face an acute fiscal crisis. We are not talking about raising taxes and even admitting to the Ways and Means committee, that raising taxes is counterproductive at a time like this and in the intermediate to the long-run, will run jobs out of our state. I don't take to task those who have reached a different point of view, it's a tough one, but I admire Senator Bass for courage of his statement and I am going to join with him in that and whether we have a roll call or not, I want to be recorded in opposition to this bill.

SENATOR OLESON: I have, over the years to a certain extent, been involved. I was on the project . . . for sometime and I've seen the need. And, Mr. President, a test of any democracy to me, is how well we take care of our unfortunates and our poor and our old, and if we can't meet that test, I think that somebody should take over and do a little better job. I think this is quite essential, but nevertheless, this will be passed on to the Finance committee, be reexamined, and priority set at that level. I hope this will be one of their priorities, if not, they will set their priorities and they might not be able to fund this, I hope this doesn't happen. Maybe I believe in miracles and maybe I don't, but there is such a thing as our financial status might



change and then we can set more spending in certain areas as we are doing at the present time. Thank you very much.

SENATOR HOLLINGWORTH: My father was a man of very few words. One of the things that he used to say: Penny wise and pound foolish. Do you have any idea what it would cost us if these elderly that we provide for with meals on wheels all of a sudden had to be institutionalized because they couldn't provide for food for themselves. I just ask you to think of that. If our needs, we can't think of the things that we need to do, the services that we need to perform we are certainly going to find, down the road, much more cost to this state.

SENATOR HOUGH: I appreciate it and the position that you're in and we're in. I respect your efforts. But I would tell you that regretably when we have faced with executive orders and the budgeted adjustment acts, that are sweeping, that sometimes they do the things that we least want to do. We are very sensitive to demands to the appropriation process. You saw me discussing over there with Chairman Blaisdell. It wasn't two years ago that we revisited the question on meals on wheels as well as the question of daycare. If this body wants to send a very clear and specific signal to make this part of the Senates' position, we can only tell you that we have supported this activity in the past and we will make every effort to maintain a maintenance of effort in the future. I heard what Senator Humphrey said. I don't necessarily disagree with him. But no matter what we have for resources there are some things that we are going to have to do and some people that we are going to have to maintain. And if it's the wisdom of this body to put policy emphasis on this program, we will accept it and we will respect it and that's all I wish to say on this subject. Thank you.

SENATOR DISNARD: Senator Bass, would you believe that I heard you say that you were against this because of fiscal concerns. And you also heard what Senator Hollingworth said. Would you believe, that if we do not pass this bill by 1993 we will have over 100,000 less meals to provide. Would you believe that the average meal that they deliver at the home of meals on wheels this year is \$3.30 and the anticipated \$4.46 for 1992 and the anticipated \$3.64 for 1993. If it is true, that what I assumed I heard from you, then I would think that you would want this because if those people are institutionalized, there goes your budget.

SENATOR BASS: Senator Disnard, I heard your question, and I heard Senator Hollingworth's question. My concern is that I fully expect to support a budget similar to the one which the Governor has proposed for us. There are some difficult questions that need to

be addressed in that budget. The Senate Finance chooses to add funding in and over and above the Governor's budget proposal to cover meals on wheels, I'll consider that question at that time, but I do not want to place myself in a position of voting for a bill such as this at this time and then supporting a budget that doesn't have these appropriations because I think that is inconsistent and unfair.

SENATOR PRESSLY: For those of you who questioned the value of this service, I would like to suggest that you do what many of us in county government did one year. As you know county government also funds the meals on wheels programs and like you, we were skeptical. So about four of us decided that we would go and see what the program was all about. So we went to the senior centers, we went to the location where the food was prepared, we literally went with the meals on wheels. It was an extremely enlightening experience. I stayed with them when they prepared the meals, they loaded the cars and I rode with the person who was delivering the meals. We went to, all the homes that we went into, it was an efficient well-organized, beautiful and meaningful operation. In practically every home that I went into, it was about 1-½ hours and we covered approximately 20 deliveries. This young woman and her small child raced these meals into the needy in the community. In each case I became convinced, having seen their home situations and having seen each case first hand, that the person to whom this meal was being delivered, could not have survived at home with dignity and independence without this meal. Not only does it bring a meal to them allowing them to live independently, but it also brings a friendly face, a touch from the community. And so for those of you who truly question the value of the expenditure of this dollar, I can assure you, first hand, that it is money well spent. I will not consider cutting this for, at any time, no matter how bleak the financial situation for the state can get. This is something, it's impossible to describe what it does and the value that you get for your dollar.

SENATOR J. KING: I don't think the committee, or I don't think that anybody else in here, feel that they're asking for more money in the budget. I think what we are saying is that with what you have, lets set some priorities. And I would definitely say the elderly should be on the top of that priority list and therefore, I recommend this highly.

A Roll Call was requested by Senator W. King.

Seconded by Senator Pressly.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Hough, Currier, Disnard, Blaisdell, Pressly, Nelson, Colantuono, Poldes, J. King, Russman, St. Jean, Shaheen, Hollingworth, Cohen.



The following Senators voted No: Roberge, Bass, Humphrey, Delahunty.

Yeas: 18

Nays: 4

Senator McLane not voting, excused.

Referred To Finance (Rule #24).

Senator Humphrey in opposition to SB 173.

**SB 174-FN**, relative to possessing and dispensing prescription drugs by nonprofit family planning agencies. Public Institutions, Health & Human Services committee. Inexpedient To Legislate. Senator Podles for the committee.

**SENATOR PODLES:** Mr. President, SB 174 amends current law to allow new clinics to open and using private and federal funds. Current law allows only clinics with state family planning contracts to dispense prescription drugs and that includes contraceptives. This bill allows additional family planning clinics to operate dispensing prescription drugs and those contraceptives on site. The committee recommends Inexpedient.

Senator Bass moved to Have SB 174-FN, Laid On The Table.

Adopted.

SB 174-FN, is LAID ON THE TABLE.

**SB 177-FN-A**, relative to enhancing prenatal care and making an appropriation therefor. Public Institutions, Health and Human Services committee. Ought to Pass. Senator J. King. for the committee.

**SENATOR J. KING:** I would like to defer this to Senator Hollingworth.

**SENATOR HOLLINGWORTH:** The committee report is Ought to Pass and I would like to speak to that motion. If mortality in general is the rule of thumb, or the well being of the population in New Hampshire, the state center for health statistics states "that women who receive no prenatal care until their third trimester of pregnancy or receive no prenatal care are more than three-times likely to experience an infant death and nearly twice as likely to deliver a low birth weight baby than those who have prenatal care in their first trimester. Low birth weight and prenatal and premature birth are the associated problems, are the leading cause of infant death. The average cost of prenatal term or low birth weight baby in an intensive care nursery is \$1,000 to \$2,000 a day, with the average hospital cost of \$55,000. The cost of life long disability can add up to hundreds of thousands of dollars for required special needs in education, ther-

apy and medical cost. SB 177 preserves the level funding to 91, does not address those people who will have added, have been added to the system because it only preserves level funding to 1991. There are 10 prenatal clinics around the state that provide prenatal care to low income women and adolescents. In addition to addressing the needs to enhance the ability of those clinics to provide prenatal care to those, more than 600 women who were denied admittance into the prenatal program last year, the additional dollars for enhanced prenatal care will reduce spending on costly medical and rehabilitation and education services. This is most cost-effective and it's the best use we can use of health care dollars in both the long term and the short term. I ask your support on this bill of Ought to Pass.

Referred To Finance. (Rule #24)

**SB 197-FN**, relative to code compliance for health care facilities. Public Institutions, Health & Human Services committee. Inexpedient To Legislate. Senator J. King for the committee.

**SENATOR J. KING:** This bill dealt with the Health and Human Services and the Department of Safety Fire Marshall, and what they wanted to do is transfer people from the Health and Welfare to the Safety code at the Safety Department. And the Welfare Department told them that if they did, they wouldn't have enough to handle it, and then certain things would be duplication. The other side said they wouldn't have enough with the one person, so as a result we declared it Inexpedient to Legislate.

Committee Report Adopted.

**SB 220-FN**, relative to foster care. Public Institutions, Health and Human Services committee. Ought To Pass With Amendment. Senator Bass for the committee.

**SENATOR BASS:** Mr. President, the amendment essentially increases the age in which an individual is defined as being a child for purposes of foster care from 18 to 20. The original intent of the bill was to permit children who did not finish high school by the age of 18 to remain in a foster home and make it possible for the foster parents to receive federal medicaid, medicaid reimbursements until that child graduated from high school. The problem is that the federal eligibility requirements do not permit a statutory determination, one's eligibility on the basis of whether or not one is in school or not. But the net effect of passing this bill would be to permit foster parents to take care of children until they finish high school or age 20, whichever came sooner. I urge your adoption of the committee report of Ought to Pass as Amended.



SENATOR W. KING: Senator Bass, will this allow for the Division of Children and Youth Services to continue to cover those foster children while they are in their foster homes?

SENATOR BASS: Yes, it will. Exactly.

SENATOR COLANTUONO: Senator Bass, is the amendment at the top of page 21 the only amendment that is before us right now?

SENATOR BASS: Yes, it is.

SENATOR COLANTUONO: You stated that the purpose of the bill as amended is to allow the child to remain in foster care until 20 or they finish high school. I don't see that reflected in this language.

SENATOR BASS: That is correct. It is not; however, the net effect of allowing the age requirement to be raised from 18 to 20 would be that which I stated. You can't say that statutorily, because the feds don't allow for a determination to be made by statute on the basis of whether or not somebody's in high school. As a matter of practice, the division would set that standard by rule and the effect would be, by the way, substantially less fiscal impact as was noted in the original bill.

SENATOR COLANTUONO: What would that fiscal impact be under the amendment?

SENATOR BASS: It was not, I don't know what the fiscal impact would be, I can only say that Mr. Pliskin who is the division director, indicated that it would be negligible he said.

#### **Amendment to SB 220-FN**

Amend RSA 170-E:25, I as inserted by section 1 of the bill by replacing it with the following:

I. "Child" means any person under 20 years of age.

#### **AMENDED ANALYSIS**

This bill redefines the word "child" to persons under the age of 20, in regards to the licensing of residential care and child-placing agencies.

Amendment Adopted.

Referred To Finance. (Rule #24).

Recess.

Out of recess.

Senator Delahunty in the Chair.

**SB 5-FN**, an act relative to Skyhaven airport. Transportation committee. Ought To Pass With Amendment. Senator Cohen for the committee.

**SENATOR COHEN:** The committee recommended passage of this, Ought to Pass because this simply establishes a commission that will be responsible for the oversight of this state-owned facility, Skyhaven airport, which exists in Rochester, New Hampshire and it is currently starting to bring in money to the state.

**SENATOR HEATH:** I am rising in opposition and even my public school education tells me that I can count the numbers here. This is the only airport in the state of New Hampshire owned by the state. This is flying pork for this reason; this pork barreling, we are looking at an economic situation in the state of New Hampshire and it's being used to focus the pork trains and the pork planes down in the Rochester area. We would all like to do these things for our district. This is the only state airport and what have we established with this bill. We are establishing the control of the airport as a local control. Send the bills to the state of New Hampshire, but let's keep the airport. The airport's a recreational airport, a few corporate jets come in, perhaps Tim Mellon will be able to buy a new plane when we get through today and he can land there and bring his pork in there. But make no mistake about it, the same person who sponsored this legislation to give local control has fought every effort for local control at the Pease Air Force Base. So when you take your vote, know what your voting for.

Senator Blaisdell moved the question.

Adopted.

### **Amendment to SB 5-FN**

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Commission Established. Amend RSA 422 by inserting after section 46 the following new subdivision:

#### **Skyhaven Airport**

422:47 Commission Established.

I. There is established a commission, to be known as the Skyhaven airport operation commission, which shall be responsible for the oversight of all operations of Skyhaven airport in Rochester, New Hampshire. The membership of the commission shall be comprised of the following individuals who shall have expertise in the area of aeronautics and shall not have any financial interest in Skyhaven airport nor be the spouse of any person having such a financial interest:



(a) One member appointed by the mayor of Rochester, New Hampshire.

(b) One member appointed by the mayor of Dover, New Hampshire.

(c) One member appointed by the mayor of Somersworth, New Hampshire.

(d) Two members appointed by the governor and council.

(e) One member appointed by the president of the senate.

(f) One member appointed by the speaker of the house.

II. The term of office for the members of the commission shall be 3 years and until a successor is appointed and qualified. A vacancy shall be filled in the same manner, but only for the unexpired term.

422:48 Duties of the Commission. The commission shall:

I. Be responsible for the oversight of all operations of Skyhaven airport.

II. Prepare and submit an operating and a capital budget to the director of aeronautics, who shall submit such budget in accordance with RSA 9.

III. Have access to all books, records and other data relevant to all operations of Skyhaven.

IV. Advise the director of aeronautics on issues relating to all operations of Skyhaven.

Amend the bill by inserting after section 2 the following and re-numbering the original section 3 to read as 4:

3 Repeal. 1989, 383, relative to Skyhaven airport in Rochester, is repealed.

### AMENDED ANALYSIS

This bill establishes a commission which will be responsible for the oversight of all operations of Skyhaven airport in Rochester, New Hampshire.

Amendment Adopted.

Ordered To Third Reading.

Senator Heath in opposition to SB 5-FN.

**SB 32**, an act requiring certain motorists post a credit card deposit for traffic violations. Transportation committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: Yes, this was Senator Bass' bill and it got some general discussion and we found a way to use the bill to allow the courts to collect some fines if people had credit cards and as I understand it, the bailiffs are happy with it, and everyone is happy with it, and it allows us to collect some money that might be readily available in cash and I would urge its passage.

**Amendment to SB 32-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT**

permitting district and municipal courts to accept  
payment of fines by credit card.

Amend the bill by replacing all after the enacting clause with the following:

1 Fine Payment by Credit Card. Amend RSA 502-A:8 to read as follows:

502-A:8 Duties of Clerks; Disposition of Fines. The clerk shall receive all fines and forfeitures paid into the district court from any source. **Where any person has demonstrated an inability to pay any fine by cash, the clerk of any district or municipal court may accept payment of the fine by credit card in lieu of cash payment. Any transaction costs assessed by the issuer of the credit card shall be paid out of the portion of the fine amount which is deposited in the general fund and not out of the penalty assessment charged by a district or municipal court.** After deducting witness fees, court seal, record books, printing blanks, and such other expenses as may be legally incurred in the maintenance and conduct of said court, the clerk shall, except in cases otherwise provided, pay the same over to the commissioner of administrative services, or to such department or agency of the state as the law provides, within 14 days. After deduction of expenses enumerated above, fines and forfeitures collected by the clerk for violations of municipal ordinances, codes, or regulations, except those adopted pursuant to RSA 31:39, I(g); RSA 41:11; RSA 47:17, IV, VI, VII, or VIII; and RSA 105:6-7, shall be remitted within 14 days to the treasurer of the municipality prosecuting said violations, for the use of the municipality. All expenses related to the processing of parking violations and the administrative collection of parking fines shall be the responsibility of the local unit of government, and all fines collected shall be retained in their entirety by the local unit of government.

2 Effective Date. This act shall take effect January 1, 1991.

**AMENDED ANALYSIS**

This bill allows district and municipal courts to accept payment of fines by credit card in lieu of cash payment, where a person has demonstrated an inability to pay by cash.

Amendment Adopted.



SENATOR HUMPHREY: Senator Bass, is it still discretionary on the part of the police officer, whether he asks for the credit card or not?

SENATOR BASS: Senator Humphrey, this unfortunately, the original language of my bill, which would have allowed police officers to use credit cards or checks and so forth, as a means of requiring a deposit should that officer have reason to believe that the motorist was not going to comply with the plea by mail system. That language was struck from the bill and substitute language which is in the Senate calendar, was placed to allow bail commissioners to use credit cards if cash is not available for purposes of posting bail. I support the committee amendment as the substitute to my original bill.

Ordered To Third Reading.

**SB 162-A**, an act relative to rebuilding, modernizing, and maintaining the Conway branch line and making an appropriation therefor. Transportation committee. Ought To Pass With Amendment. Senator Cohen for the committee.

SENATOR COHEN: The Transportation committee recommends a vote of Ought to Pass on SB 162, because it is in the states interest to make prudent investments in New Hampshire's transportation infra structure to insure our secure economic future. SB 162 is about finishing work on a project which is correct 3/4 complete. Out of 40 miles of track between Ossipee and Rochester, 30 miles have been improved in projects undertaken in partnership between the state and New Hampshire North Coast Railroad, owner of the line. Completion of the final 10 miles adds to the value of New Hampshire's original investment. And significantly it enhances transportation, thus giving a major and much needed boost to New Hampshire's economic development. Specifically SB 162 calls for a public private partnership for development, with the state appropriating \$800,000, to rebuild, modernize and maintain the final 10 miles of track between Rochester and Rollinsford. The last 10 miles connects all 40 miles to the mainline which will not be abandoned. SB 162 provides the most efficient manor of improving the stretch of track. Guilford Transportation Industries and New Hampshire North Coast, and the shippers by law RSA 228:66, must agree to contribute 20 percent of the cost, but SB 162 would increase this contribution to 25 percent. Through the legislation the state will hold as security, permanent ownership of the rail, the tie plates, the anchors, and the spikes which is preferable to a lien, which runs out after just ten years. With the state investment, North Coast, and Guilford would bear the remaining cost, about 1.2 million dollars. Additionally, the

\$800,000 appropriation is reduced by about \$90,000 from the sale of the ripped up old track. This 10 mile track in question is the one weak link in the line, it is obviously in need of repair. But why should the state of New Hampshire care about these 10 miles. Because passage of SB 162 means continuation of a long established policy and well proven precedent of state support for transportation of freight by rail. Completion of this line means avoidance of the heavy cost of highway repairs. The only other transportation line between Rochester and Conway is route #16 which if you have been on it, as you know, is already under heavy usage by tourists traveling to New Hampshire's lakes and mountains. The capacity of these two rail lines equals about 16 highway lanes. One railroad freight car carries the same load as four trucks. If this line is completed, it will mean about 65,000 rail cars will use it each year. Building the rail line, thus means offsetting about 20,000 trucks to that already congested road. Completing the project would obviously mean jobs. Not just from construction of the line, but from new businesses located adjacent to it, if it is improved Granite State Industrial Park in Rochester and Malleyfarm Industrial Park in Somersworth have committed to construction of spurs onto the line. I would argue that it is in New Hampshire's interest to help facilitate access for new products and services to reach their markets. Completion of this short line railway, significantly enhances the prospect for other commercial and industrial development within the region. This \$800,000 is not an operating subsidy, it is an investment in capital improvements. If the line is completed, Guilford Industries is under binding agreement to use the track at at least 80 percent capacity. Once the track is fixed, Guilford will maintain the track with the upgraded class II level, if on the other hand the track is not improved the track will continue to deteriorate beyond repair, doing serious harm to the regions' economy. For our secure economic future, New Hampshire needs the best possible transportation system, and that necessitates a mix of highway and rail. In my district #24, Pease and the Port of New Hampshire are international transportation facilities all set for development and expansion. This railway enhances the value of these facilities. The project adds to the value of the states original investment while enhancing transportation for several important shippers, Ossipee Aggregates, Davidson Rubber, Eastern Propane, Airco and others. The law and precedent is clear, this project is an important and prudent investment in our economic future, let's not miss this opportunity.

PRESIDENT DUPONT: Colleagues and friends, it is a pleasure I assure you, for me to take my seat on the floor as a state Senator from district 6.



Although being Senate President, I do get a different perspective of this body. My time spent debating issues on this floor with many of my colleagues that sit here today has always been my favorite time and I do miss the debate. It is also appropriate that I join you to debate an issue that is important to my district, one that I am not ashamed of bringing forward to this body. And although we always try to consider issues on a statewide basis, which is part of our charge as state Senators, our influence does emanate from the district that we represent, and I do not take that responsibility lightly. I join you here today on the floor to debate an issue that although effects my district, I believe also, is good public policy. SB 162 would fund improvements on a rail line in the eastern part of our state, it is important not for just that reason, but as Senator Cohen mentioned, for those who recognize the weakness in our road structure on the eastern side of New Hampshire, one would realize that transportation is our weakest link in our infrastructure, particularly to the north of Rochester. The state has made previous investments in this line and it is in fact one of the few lines in the state where traffic continues to grow. Shortly, I'm sure, someone will mention the name Tim Mellon, who is the majority owner of Guilford Transportation, which took over the bankrupt B & M railroad, and Guilford Transportation now owns this line. I do not know Mr. Mellon, I have never met him, I've not filed this request, this bill at his request, or the request of anyone at Guilford Transportation. Unfortunately, I can't change who owns this line. If I could, I would. It is before you because the state has adopted a policy that says that rail is an important part of our future in New Hampshire and that our future investment in rail proves that it is a good public policy. Traffic is increasing on this line. Industrial development is taking place adjacent to this line, and that industrial development is taking place in a way that does not add additional traffic to our already overburdened roads. This is what this bill is all about. And what I've mentioned does not benefit Tim Mellon, it benefits the state of New Hampshire. Whether or not this line stays open, I truly believe is not important to Mr. Mellon, although I don't know that for a fact. I would also add, Mr. President, that I have never brought legislation to this floor that benefited my district that was not also good public policy for the whole state. And this legislation should be looked at on the basis of whether it is good public policy, whether it is good for the state to invest in rail, because rail is more energy efficient, it takes truck traffic off our roads and also supports existing economic development. I would also add that Senator Fraser knows the importance of this bill, because there is an industry in his district serviced by this rail line that employs 1,500 people. They use this rail line to bring their raw materials in and their finished product out. As we spend

our time on economic development, more and more of you will hear that the state needs to invest in itself to get our economy going again. I've spoken to leaders in many of your districts during the last few months and what they want to know is when is the state going to invest in their area, and in the states' future. That's included special treatment for the city of Manchester, on it's airport, special monies that would be appropriated to help Pease, and the Port Authority. These are important projects that we all need to support because they all have specific roles to play in creating a good economic future for New Hampshire, but they do require us to invest our precious dollars in our future. This is a difficult time for our state and I certainly know from all of the members of Finance and Ways and Means who have debated how we are going to solve our states' problems, but there is also a time that when we debate the merits of spending dollars, that we also try and put a value on every job that exists in the state of New Hampshire and the value of industry that exists in our state. I am not saying that jobs will disappear if we do invest in rails or airports. But, I am willing to say that it will be a factor of significant importance to retaining and creating jobs in our great state and that's not just in my district, but in all of the state of New Hampshire. In closing we all need to think about the value of that job that I spoke of earlier. What it does, and what it means to our economy and what we as a state are willing to invest to create and retain jobs in our state. Because gentlemen and women of the Senate, that is really what economic development is all about, and I would add that I believe that this bill, as I indicated and I'm not ashamed too, it is important to the industry that I represent in my area, and to the people of my district as well as the people who are in districts adjacent to mine that will receive service from this line. Thank you, Mr. President.

SENATOR HEATH: I wasn't going to speak to the merits of this bill because there are no merits to it. I worked and I know that some of you believe it, and some of you won't, to find some compromising language, because if there are any merits to this, then it's going to benefit the area, it's going to benefit the state. I wanted to see some contribution from Guilford Transportation, Tim Mellon. The man who earned his money the easy way, he inherited it. His family has been sucking off the udder of the federal government, and state government probably no doubt, for five or six generations. Mellon doesn't want to make a contribution, he wants to reap the cream off the milk train. I looked to the city of Rochester, to propose a language to amend this bill to make sure that they made a contribution, because this is where that train is going to run, that was unacceptable. Well where are we going to get the \$800,000 to build a pork



train? We are going to boost the business profits tax and let every other business suffer in the state a little more because Tim Mellon doesn't want to contribute. That is the merits of the bill. Everytime we have an election, our opponents grabbed this book, they look through and say, gee what can I hang on these guys, this guy, this woman, look what they are running against. This is a gotcha. We don't have any money. And we are going to take nearly \$1,000,000 and hand it to a billionaire because he won't make his contribution. I talked to the engineer of the train that is going to run on this track, runs on this track now. This track isn't defunct, it's running, just 10 miles per hour, because it is a lousy track, nobody disagrees there. He worked for Tim Mellon, he had nothing nice to say about this guy. If you go over into Freeport, Maine, and talk to the people over there, the labor unions will tell you that Tim Mellon treats his people like he treats the track down in Rochester, with total disregard. This is about politics, so when you're doing a favor, to carry a favor with Senator Dupont, you're putting this in the book, that you gave nearly \$1,000,000 to a man that didn't need it. And there is going to be a recorded vote on it and I think that it's pretty sad that someone in this body would lean on you enough to put that on your record when he already has the albatross on his record, his name is on here, yours isn't yet. And this isn't going anywhere, this is going to pass the House. The Governor's going to veto it if it passes the House. It will never get through this body, and while you people should wear it, I don't know, but I would suggest that if this individual had any feeling for you, he would ask to table this bill and wouldn't see it again.

SENATOR BASS: Mr. President, I am not a member of Transportation committee, and I am not as familiar with this particular piece of legislation as I am others that may come before the Senate. I rise in support of the committee recommendation of Ought to Pass as Amended. I certainly don't have any axe to grind on this particular issue. I would remind, for many of you that don't know that my grandfather when he was Governor, spent a good part of his time attempting to fight the Boston and Maine railroad; however, and certainly, I am in no position to say that I'm doing this as a favor to any particular individual because Senator Dupont and I haven't exchanged a single word on this piece of legislation, not one word. But I rise in support of this bill, the committee amendment, because I think that there are two issues today. The first, which has been brought forth by Senator Heath and also by the Manchester Union Leader, and that is the question of ownership of the particular piece of railroad that is in question. And the second issue, which is the major issue in my opinion, is the question as to whether or not the

bill is justified, just as any other bill that this body considers. First of all, this bill is not an appropriation of \$800,000 reading the amendment. It's really a capital item i.e. we are appropriating \$800,000 for the purposes of issuing bonds which will have a ten year life, as I see it. It's not going to cost \$800,000 in one fiscal year. I would also point out that this is not the first time this kind of legislation has come before the Senate. And looking at the original 228:66 I note that there are other bills that have been introduced in the past, in 1986 the state bonded \$885,000 for a portion of the railroad that exists in Senator Fraser's district and after that in 1988 they bonded \$850,000 in similar fashion for a portion of the railroad that exists in Senator Heath's district. I may have it reversed, I'm not sure. But the fact is, that the Senate has already established its record of supporting a program such as this, so therefore, it really leaves the only question being: are we going to pass this bill or defeat it on the basis of whether Tim Mellon owns a railroad or anybody else owns it. I don't think that is a valid reason to oppose or support the bill and I've tried to review this thing and view it, overall in the context as to whether or not it is needed in the area, whether or not if there were a similar project in Hillsborough or Cheshire county, I would support that project and whether or not it would be truly beneficial and it was a cost-effective program that would benefit the area. Because god only knows, we need state involvement as Senator Dupont has said, in helping us turn this economy around. I would like to associate myself with the comments of Senator Cohen and Senator Dupont as it relates to the merits of this bill. Let's finish this small section of track. Make the investment that the state made in the other two sections of the track more worthwhile and more cost effective for the state. Let's forget about the fact that Tim Mellon owns or doesn't own the railroad as being a silly reason, nonissue, and pass this bill on the basis of its merits.

SENATOR HUMPHREY: Well I don't think it's a silly reason issue, to ask the question who pays. Sometimes subsidies are a good investment, sometimes they're justified. But for the life in me, I can't see why in this case, where there really isn't an emergency, and I'll get to that in a moment, why we are asking the taxpayers of the state to pick up the tab for \$800,000 plus interest to come to the aid of a railroad owned by one of the wealthiest men in America. I think that is a legitimate issue. Senator Bass doesn't, so we disagree, but I do and that's why I object to this bill. Nobody contests the fact that Guilford has neglected its track, just as it neglects its employees and neglects its obligations to the state. The track has been neglected, but I will say this, that Guilford is in violation of no law. That in, fact, Guilford is complying with a federal standard, federal railroad ad-



ministration standard, that must be met in order for trains to operate at speeds not exceeding 10 miles per hour. Guilford is in no conflict with the federal railroad administration at this time. The railroad is inspected by the Federal Railroad Administration to insure that it can safely transport trains at speeds not exceeding 10 mph. The only daily shipper on that line, as I am told, is Ossipee Sand and Gravel. What is the big rush about moving sand and gravel? The proposed improvements to the railbed will afford speeds of 25 mph versus 10 today. Ten versus twenty-five. What difference does it make, whether sand and gravel, I mean where is the emergency? Is there an emergency that we move sand and gravel at 25 versus 10? I'll tell you the difference that makes over the 8 miles that is proposed to be improved, a 15 mph difference makes a difference of 29 minutes in transit time. That is a small part of the transit time to Boston, or to any other distance point. So, I just can't see why it's so important to move sand and gravel faster, and for those other occasional shipments of other commodities, likewise, why is it so important that materials for Davidson, for example, move at 25 mph instead of 10? I think at some point this track ought to be improved, but I say let's call Mellon's bluff. There is no emergency here, let's call his bluff, let's not just rush forward because he refuses to act and pour into his coffers \$800,000, let's call his bluff. There is a way to do that. We can send him the message that unless you improve this track, Mr. Mellon, we are going to institute condemnation procedures, we'll take it and we'll sell it to a willing buyer, like North Coast which railroad has expressed the desire to buy that track. There is another provision that hasn't been yet discussed in this bill, hasn't been discussed in detail and it should be discussed. The statute which provides that the state may aid railroads, also requires those railroads to give a lien, not just on the track, but on the whole property, including real estate. That is a very good, effective piece of security. But Tim Mellon won't have any part of it and he's never been willing to give a lien to this state in return for state aid. And he won't in this case. That is why the amendment before us waives the provision of RSA 228:66 V. The Department of Transportation opposes waiving that provision and the Senator's may wish to examine, if they care to, a letter from the Commissioner of Transportation, dated March 7 addressed to me in response to a request, and the operative part says, RSA 228:66 V, which proposed to be waived by this bill, the lien provision is, in my opinion, the most important part of the law in that it provides an assurance to the department that the railroad corporation has intentions to provide long term rail transportation etc. etc. In conclusion he says that it is my opinion that a change in the lien language as proposed could seriously jeopardize the states ability to recover its investment if a rail corporation

should stop servicing its rail customers. Well to Boston and Maine, as we know too well, has it which is now owned by Mr. Mellon, has a long record of abandoning rail service in this state, and in fact, the reason that this lien provision is in the law, and it was enacted in the middle 80's, is that the state got clipped by the Boston and Maine, down on the Lyndeborough spur of the Boston and Maine, Lyndeborough branch. The state and the federal government each put up \$600,000 to build a brand new steel and concrete trestle for the Boston and Maine. The money was spent, this beautiful trestle was built and now it's called the bridge to nowhere, by the way, because Mellon came in and bought the B & M, abandoned that track, we had no recourse, we own a bridge to nowhere that cost us \$600,000, as far as I know, we are still paying interest on the bonds. A lien is important. Substituting, as this bill does for the lien, ownership of the track is vastly inferior security, here's why: Because if a service is abandoned let's say, what is our recourse? What do you do, go in there and rip up the track and you sell it as used track. The cost of tearing it up is one-third the resale of used tracks. So immediately you're out one-third of the investment. Your security has already dwindled by \$266,000, which is one-third of \$800,000. And there is some question, although it's not a settled question, about whether the state could easily go in to recover the states personal property and in so doing trespass on the railroads real property. But in any event, the point that I want to make is that ownership to the track is vastly inferior to a lien. We accepting a lien only because Mellon won't give us a lien, he won't fix the track, he won't sell it to North Coast, he won't give us a lien, but what he will do is take \$800,000 on his own terms. There just is no need for hasty action, I say call his bluff. Trains have been operating at 10 mph for sometime now. It won't hurt to do so for another year. I just think that the Senate is falling into Mr. Mellon's trap and we ought to stop it, and we ought to defeat this bill, we ought to send Mr. Mellon a letter saying that if you don't fix this track, buster, we're going to start condemnation procedures.

SENATOR CURRIER: As a member of the committee, I recall that, at least I think I recall, and that is why I'm asking you. Wasn't the provision for the lien provision a recommendation of Senator Heath, a request of Senator Heaths?

SENATOR HUMPHREY: The ownership of the track, I think came from Senator Heath, yes.

SENATOR CURRIER: As opposed to a regular lien procedure?

SENATOR HUMPHREY: Well, Mr. Mellon has made clear that he is not going to give a lien. Everybody knows this bill won't work, unless that provision is waived.



SENATOR CURRIER: But the question is, wasn't the request of the lien amendment that is in this bill, the request of Senator Heath and not Mr. Mellon, who is not a member of the committee?

SENATOR HUMPHREY: Mellon is not a member of the committee, that is correct. The only reason there is any motivation to waive the lien provision is that Mellon will not give a lien. Now I think Senator Heath in good faith came up with an alternative, which in my view and more importantly, in the view of the Department of Transportation is not a good idea.

SENATOR HEATH: Senator Currier, would you believe, to answer your question, that yes, I looked at the stage and I was trying to work to make this an attractive deal for the state and it was. It benefits my district as much as it benefits any other district to have that railroad running and in fact it may benefit my district more than it benefits Senator Duponts district, at this point. I was looking for ways to make this attractive for the state. Mellon had refused the lien, I looked at ownership. That was one condition that would make that part more attractive to me. Another part would be participation mandated by the town that benefits the greatest, the town that has lobbied this bill, Rochester. And what this new amendment did is added that, but took away the rest of the things and you know, that's why yes, that was my suggestion in lieu of that, that was a stage that I was attempting to put something together, but there was nothing to be put together on this. I don't know where it went wrong, but somebody got greedy and they essentially decided that they were going to shove the whole thing down our throat, and if that was going to be a pacifier, fine, but nothing else was. I don't think we're buying it. I think that we'll buy it today and you'll all buy a reputation, that voting for it that your opponent will enjoy. I can see the cartoons, I can see the television ads, I can see the flyers when we get all through. Mr. Mellon is not going to get the improvements on his track paid for by the citizens of the state of New Hampshire who are already strapped and unfortunately, the track isn't going to get improved, so that there will be a possibility of further employment with new industries springing up along the line. That is the unfortunate aspect of it, would you believe that?

SENATOR ST. JEAN: Senator Nelson, as Chairman of Capital Budget, this whole question of liens or a lien on this track. I think there is some merit, my friend Senator Humphrey, has made some very, very valid points. If we're going to send this down to Capital Budget, will your committee look at this whole question of taking out a lien on this line if we bond the \$800,000, Senator?

SENATOR NELSON: Senator St. Jean, obviously any information that is presented to that committee will be studied and looked at. I can't speak for the committee, but it sounds as if that we should have a public hearing, and we should maybe pursue that aspect a little bit more.

SENATOR ST. JEAN: What you're telling me, Senator, is that you have not ruled that out as of this point, it may have some merit in order to gain more support when that comes, when this particular piece of legislation comes back out of Capital Budget?

SENATOR NELSON: Senator St. Jean, at no time has anyone spoken to me in this body about the legislation. It's been my policy as the Chairman and members of the committee to keep an open mind on everything, and even though something may occur on the Senate floor, that doesn't necessarily mean that that is the way it's going to come out of Capital Budget.

SENATOR ST. JEAN: Would you believe, Senator, in order for that bill to come back out onto the floor in order to get my support, that lien provision, something has to be put into this legislation to get my support?

SENATOR NELSON: Senator St. Jean, thank you for being so clear and the committee, I'm sure, if I may speak for them on this occasion, will be most anxiously awaiting your arrival so that you can give detail as to why you think that that should be part of it, and I'm sure the documentation that you present will support that case.

SENATOR HUMPHREY: Senator Dupont, is it correct that Guilford has made known that it will not accede to the lien provision of the law?

PRESIDENT DUPONT: Senator, I would respond to that by saying that I have no, nothing in my possession that indicates that the discussions are not still open with Guilford as to that fact. As I indicated in my earlier statement that there are good benefits in terms of jobs from having this rail in condition that is both, not just speed, but safe in its condition also. That I have an obligation to pursue any type of remedy that allows that economic opportunity to continue and I would also add that I've had discussions with Guilford Transportation about it. The door has not been closed as far as I'm concerned and that Capital Budget should and will continue to pursue that, but in light of all that, I would still say that I think that the merits of moving forward on this in a way that the state is protected still is something that this body should consider.

SENATOR HUMPHREY: Well if in fact Guilford has left the door open to granting a lien, certainly granting a lien would be a new



precedent for that railroad. What is then, what was then the impediment for waiving the lien provision?

PRESIDENT DUPONT: Senator, as you know the existing legislation and I'm not saying that this bill will come back with a different lien. I can't tell you that at this point and time, all I can say is that there has been discussions as I indicated to you and that there is a lien in legislation that this body is adopting today, as you are well aware of. It is not the same type of lien that has been granted in the past, which in the past was a 10 year lien on the real property. And as you also know, Senator, after the end of the 10 years, Guilford transportation or whomever owns the line could shut the line down and the state had no remedies for any recoveries, even minus the third that you speak of if Guilford decides to close this line down. So in terms of the state investment, I think this lien actually accomplishes if we are talking strictly the recovery of the money, much more than the previous liens did. But in spite of all that, you know, as I put the question to this body, what is the value of the jobs that are created by making this investment. And I still think clearly that ought to be part of the focus of this debate.

SENATOR HUMPHREY: I'm still mystified why we have a proposal to waive the lien if Guilford is open to giving a lien. What is the impediment for this waiver?

PRESIDENT DUPONT: Senator, we are not waiving the lien again, we are amending the lien to the tracks, and if you read the language, that is clear and there is a process in this body as I'm sure you're aware of now, where a policy committee puts a piece of legislation before us and then it goes to our Capital Budget or Finance committee, and the Finance or Capital Budget can then again continue to work on issues that come before us on a specific piece of legislation, so I'm not going to respond whether I'm optimistic or pessimistic about our abilities to get Guilford to do anything, because I, as well as anybody in this body, have had dealings with Guilford before, and I know how difficult they are, and quite frankly, they probably won't grant a lien on the real property, but I am not going to stand in front of this body and say that if you don't, if you believe that rail has some value to the state of New Hampshire, should we throw our hands up in the air and just say that we don't like Tim Mellon, so we're not going to have rail in the state of New Hampshire. What we have done in this state is established a policy that says yes rail is important to our economic development and we are going to try to keep those rail lines open, and we are going to put state dollars in it, because it is good public policy. And that is what this bill attempts to do, Senator.

SENATOR OLESON: I am the Chairman of the Transportation committee and the way that I have to look at it is that if we are going to have a prosperous state, we have to have an interstructure transportation, both rail and roads. Myself, I took a ride on this railroad and it isn't so much as speed, Mr. President, as the fact that they have a history of derailments. So in order to take in porks or take in goose, people who come into this area either for a factory or a business, they want a safe way of transportation. And to touch on that briefly, both the cities of Rochester and Somersworth have industrial parks in this area. Everyone knows, I think, before election we preached the gospel that we have to have economic development in the state of New Hampshire. Mr. President, in order to have economic development, the state of New Hampshire might have to spend some money. I took a ride, maybe that's the last one, but I still look at it as such. What enhances the prosperity of the southern part of the state sooner or later it will cross the White Mountains into my area. I view this as an investment. We started on this bill February 6, I believe. We had many discussions, we called certain people in, we've rehashed it, plowed, seeded, reaped and plowed again. I think most questions have been answered, I am not going to stand to answer questions that I think have already been answered over and over again. But I do appeal to the Senators on the floor. This is part of our transportation system in the state of New Hampshire and if we believe in economic development as I do, I think we have to spend a little money maybe, but come up with a safe transportation system. Thank you very much.

SENATOR W. KING: I'm very sorry, Senator Blaisdell, I had already asked to speak very briefly on the subject. Senate colleagues, yesterday afternoon from 4 o'clock until 8 o'clock, the Senate Economic Development committee sat and listened to people from the Department of Resource and Economic Development to people from the private sector, to people intimately involved in economic development issues. The one clear point that was made over and over again to us, was that in surveys of business and in surveys of community leaders the infrastructure of our state and the infrastructure of our communities is the most important driving aspect to the economy. We have all heard Senator Heath, and seen him hold up his little book and threaten everybody with what is going to be the results of the vote that we take today. The decision that we have to make on the floor today is a tough decision, there is no question about it. It is a very sexy thing to play out in the press. But the fact is, that if we are going to get the economy going in the state of New Hampshire, we are going to have to make some of these tough decisions about investing money. Now I'm going to take a page, now that



I've taken a page out of Senator Heath's, book, I'm going to take a page out of Senator Humphrey's book. Is there anybody, please stand up if you like Timothy Mellon? Stand up if you think Timothy Mellon is a sweet, lovable, cuddly guy? I am not worried about Timothy Mellon, are you? I'm worried about the guy who gets up in the morning at 5 o'clock and packs his lunch box and goes to work everyday. I'm worried about the woman who gets up at 4:30 and packs her lunch box and goes to work everyday. We're talking about jobs, that's what we need in this state right now, we need jobs for the people who are unemployed. The way that you do that, the way that you make that happen is that you build the infrastructure, you provide the educational infrastructure, and the physical infrastructure to make it happen. If we are not willing to take some lumps from the Union Leader or anybody else in order to make that happen, then it's not going to happen. But if we are willing to do that, then two years from now, when you run for reelection, you can hold your head high, and say when the times were tough, I made the tough choices and that's why things are better today.

Senator Blaisdell has moved the question.

Adopted.

### **Amendment to SB 162-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to rebuilding, modernizing, and maintaining rail properties and making an appropriation for the Conway branch line.

Amend the bill by replacing all after the enacting clause with the following:

1 Matching Funds Percentage Increased; Participation of Cities and Towns. Amend RSA 228:66, I to read as follows:

I. All state funds shall be matched by the owner, shipper, or user in cash in an amount equal to [20] 25 percent of the total amount provided. **The owner of the railroad shall be a participant in this match.**

**I-a. Cities and towns in which the rail rebuilding, modernization, and maintenance program is conducted are authorized to participate in the match as required by RSA 228:66, I.**

2 Appropriation. The sum of \$800,000 is hereby appropriated for the fiscal year ending June 30, 1991, to the department of transportation for the rebuilding, modernization, and maintenance of the Conway branch line. This appropriation is in addition to any other

funds appropriated to the department of transportation. This appropriation shall be subject to the provisions of RSA 228:66, except as provided in section 4 of this act, and shall be nonlapsing.

3 Restriction on Appropriation. The appropriation contained in section 2 of this act shall be used only for the purchase of rails, tie plates, anchors, and spikes, hereinafter referred to as the "materials" and shall be expended only with the prior approval of the governor and council.

4 State Ownership of Rails, Tie Plates, Anchors and Spikes. The state shall be the owner of that portion of the materials purchased with the appropriation in section 2 of this act. Those parties authorized or required to match the state funds provided under this act shall be the owners of that portion of the materials purchased by their respective matches. The provisions of RSA 228:66, V shall not apply to this act.

5 Bonds Authorized. To provide funds for the appropriation made in section 2 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding \$800,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payment of principal and interest of the bonds and notes shall be made from the general fund of the state. The bonds shall be 10-year bonds.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill increases the percentage of matching funds that an owner, shipper, or user must pay in rebuilding, modernizing and maintaining rail properties in order to obtain state funding.

The bill allows municipalities to participate in the match.

The bill also appropriates funds to the department of transportation to be used for the purchase of rails, tie plates, anchors and spikes for the Conway branch line.

A Roll Call was requested by Senator Heath.

Seconded by Senator Blaisdell.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Dupont, Disnard, Roberge, Blaisdell, Bass, Pressly, Nelson, Podles, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Heath, Currier, Colantuono, Humphrey.

Yeas: 19

Nays: 4.

Senator McLane not voting, excused



Amendment Adopted.

Referred to Capital Budget (Rule #24).

**SB 123-FN**, an act relative to the wine industry of New Hampshire. Ways and Means committee. Inexpedient To Legislate. Senator Russman for the committee.

Senator Russman moved to have SB 123-FN LAID ON THE TABLE.

SB 123-FN, is LAID ON THE TABLE.

**SB 181-FN**, an act relative to the number of winner-take-all bingo games allowed on one game date. Ways and Means committee. Ought To Pass With Amendment. Senator Blaisdell for the committee.

SENATOR BLAISDELL: This bill was voted out unanimously, out of Senate Ways and Means as permissive legislation, they may do it, but they don't have to. It's a revenue raiser for the state and we ask your consent.

SENATOR PRESSLY: Senator Blaisdell, we're over here trying to look up the statutes. It's unclear, can you tell us please sir, what new type of gambling will be allowable under this?

SENATOR BLAISDELL: There is nothing new of gambling at all, it's just an expansion of what they have already. It's just, they have a limit right now, they can do one game and this will allow them to do two games. From two to four, I mean, that's all they can do.

SENATOR PRESSLY: So this expands a private nonprofit to have more than one gambling game going on at the same time?

SENATOR BLAISDELL: Yes, I guess that's what you call it, it's a winner take all, really, yes. It's a great thing for the charities and it will bring in a little bit of revenue to the state of New Hampshire, Senator Pressly. There is no problem with it.

#### **Amendment to SB 181-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 Number of Winner-Take-All Bingo Games Increased. Amend the introductory paragraph of RSA 287-E:7, XIII to read as follows:

XIII. During any game or series of games conducted on any one game date by a charitable organization, no more than [2] **4 winner take all** games may be conducted in which the total amount paid by the players shall be divided among the winners of that game, provided that:

2 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill increases from 2 to 4 the number of winner take all bingo games which a charitable organization may conduct on any one game date in which the total amount paid by the players is divided among the winners of that game, after the payment of a 7 percent state tax on the winnings.

Amendment Adopted.

Ordered To Third Reading.

**SB 189-FN**, an act allowing raffles and games of chance to be conducted at the same place as a bingo game. Ways and Means committee. Ought To Pass With Amendment. Senator J. King for the committee.

**SENATOR J. KING:** This is a first cousin to the one that Senator Blaisdell just had and this, at the present time you can't have games with chance or raffles in the same place as bingo, or at the same time as bingo. The original 189 included raffles and games of chance. The amendment took out the games of chance and now it's just raffles. The purpose of the bill is hopefully to draw a bigger crowd for the people for the smaller bingo games, this would be a drawing card for them. I recommend its passage.

**SENATOR NELSON:** Senator King, I wanted to have just a better understanding of why you took out on line four of the bill, on page 23. Why did you remove other games of chance except just provided in the statutes, why did you remove those statutes, 8 to 11 and the 16 to 24?

**SENATOR J. KING:** Probably because, I'm not sure, but I would say probably because they pertain to games of chance and there was a discussion of what would be games of chance and they didn't want to take the risk of going back, so they just dropped back and stuck with the raffles.

**SENATOR PRESSLY:** Senator King, I, too, am having difficulty sorting out the language, so I turn to you as the Senator reporting this out. As you can imagine my concern, is this going to allow new and expanded types of gambling within our communities? Is it, may I vote for this, feeling comfortable that this will only permit fund raising raffles, and it is no way expanding or permitting new and expanded types of gambling to take place anyplace? I don't care if it's in a church or anywhere. I want to know what we are allowing to take place.



SENATOR J. KING: My understanding of the bill is it is going to improve raffles only to be sold at the same time as bingo and at the same place. They eliminated the games of chance from the bill.

SENATOR PRESSLY: Thank you.

Recess.

Out of recess.

Senator J. King moved to recommit SB 189-FN.

Adopted.

SB 189-FN is recommitted.

**SB 201**, an act allowing each city and town to vote to establish its own tax rate. Ways and Means committee. Inexpedient To Legislate. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The committee on Ways and Means voted that this bill would be Inexpedient to Legislate, unfortunately, the bill did not do what we believed that the sponsors intended it to do to help benefit the local units of government and at this time, we would move Inexpedient to Legislate.

Committee Report Adopted.

**SB 202-FN**, an act relative to due process in the liquor commission's proceedings. Ways and Means committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill basically brings the liquor commission proceedings in line with all other agencies that have to give due process hearings pursuant to the administrative procedures act. The bill references 541-A and requires hearings before any burdensome, disciplinary action or so forth can be taken by the commission. The problem was that if the commission takes an action, there is no meaningful appeal and this clears up that problem with the law and it's a good bill and we recommend Ought to Pass.

#### **Amendment to SB 202-FN**

Amend RSA 179:56, III(a) as inserted by section 5 of the bill by replacing it with the following:

5 Disciplinary Action. Amend RSA 179:56, III(a) to read as follows:

III.(a) The commission shall adopt by rule under RSA 541-A a formal enforcement policy for licensees under its jurisdiction. This policy shall specify the disciplinary action which the commission shall take for violations of various laws under its jurisdiction. The

enforcement policy shall also specify mitigating and aggravating factors which the commission shall consider in determining penalties for specific actions. **The commission shall not suspend or revoke a license until the licensee has been provided a hearing under RSA 541-A.**

Amendment Adopted.

Ordered To Third Reading.

**SB 208-FN**, an act relative to the administration of the tax on legacies and successions and other tax laws relating to decedents. Ways and Means committee. Ought To Pass. Senator Russman for the committee.

SENATOR RUSSMAN: Yes, this was basically asked for by the Department of Revenue Administration, and hopefully it's going to get the money into the state a little bit faster. Twelve months, it was twelve months, it will now be required to be paid in from the estate in nine months and interest will start running a little earlier, as far as a penalty goes, if they don't pay that money in, so it should generate a little more money for the state and a little faster, so I ask that you support it.

Adopted.

Ordered To Third Reading.

### ANNOUNCEMENTS

Recess.

Out of recess.

President Dupont in the Chair.

### RESOLUTION

Senator Currier moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, March 19, 1991 at 1:00 p.m.

### RESOLUTION

Senator Currier moved that we adjourn until Tuesday, March 19, 1991 at 1:00 p.m.

Adopted.

### LATE SESSION

Third Reading and Final Passage

**SB 11-A**, an act appropriating funds for a new courthouse in Rockingham County.



**SB 14-A**, an act relative to environmental and engineering studies and acquisition of rights-of-way for the construction of a truck lane on United States Route 2 in Jefferson, New Hampshire, and making an appropriation therefor.

**SB 5-FN**, an act relative to Skyhaven airport.

**SB 26-FN**, an act relative to licenses to carry firearms.

**SB 32**, permitting district and municipal courts to accept payment of fines by credit card.

**SB 38-FN-A**, an act exempting interest earned by investors in certain mutual funds from the interest and dividend tax.

**SB 52**, an act changing the name of the Federal Home Loan Bank Board to the Office of Thrift Supervision.

**SB 67-FN**, relative to establishing a study committee to study the possibility of revising the school building aid formula.

**SB 74-FN**, establishing a committee to study the use of funds appropriated for catastrophic illness care.

**SB 87**, an act relative to replacement employees.

**SB 89**, relative to school district planning committees.

**SB 91**, an act relative to the disclosure of discoverable materials in product liability actions.

**SB 110-FN**, an act relative to protection of first amendment rights of students.

**SB 114-FN**, an act requiring a report on certain water laws.

**SB 125-FN**, an act relative to child abuse and neglect proceedings.

**SB 146**, an act relative to equipment and instruction programs and revolving funds for regional vocational centers.

**SB 158**, an act relative to advanced registered nurse practitioners.

**SB 159-FN**, relative to posting of public documents in licensed health facilities and health care facilities.

**SB 171-FN**, relative to discrimination in the workplace.

**SB 172-FN-A**, establishing a committee to study the board and care rates for residents of enhanced family care facilities.

**SB 181-FN**, an act relative to the number of winner-take-all bingo games allowed on one game date.

**SB 202-FN**, an act relative to due process in the liquor commission's proceedings.

**SB 208-FN**, an act relative to the administration of the tax on legacies and successions and other tax laws relating to decedents.

**SB 209-FN**, an act relative to issuance of a notice or citation by the probate court to a court-appointed fiduciary for failure to file an inventory or an account of administration and to requirements for notice to beneficiaries.

**SB 225-FN**, an act relative to the higher educational building corporation and loan eligibility.

**SB 228-FN-A**, relative to the treatment of New Hampshire trusts and the open bank assistance program under the New Hampshire business profits tax.

**SCR 3**, a resolution urging the New Hampshire supreme court to give preferred status to appeals of adoptions.

Senator Currier moved to adjourn until March 19, 1991 at 1:00 p.m.

Adopted.

Adjournment.

*March 19, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let Us Pray. Lord, who pays the tab to keep this state on an even keel for all the people? Let us calmly and prayerfully see what can be worked out!! God Bless.* *Amen.*

Senator J. King led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### RESOLUTION

Senator Fraser offered a resolution honoring Bruce G. Cheney, retiring Chief of Laconia Police Department.

### RESOLUTION

Senator Shaheen offered a resolution honoring Charles D. Reynolds, retiring Chief of Dover Police Department.

### RESOLUTION

Senators John King, Podles and St. Jean offered a resolution honoring Thomas King, retiring Chief of Manchester Police Department.



**COMMITTEE REPORTS**

**HB 593-FN-A**, relative to the rate of the business profits tax. Ways and Means committee. Ought to Pass with Amendment. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill sets in motion a temporary increase in the rate of the business profits tax from 8 percent to 9 percent for a period of one year. However, at the same time, it provides that one percent extra tax that any business who has a business profit during that year and pays it to the state shall thereupon have a credit against their tax in future years. The net effect is it is more like an interest free loan to the state for a year rather than a tax increase. That is the way the Ways and Means Committee decided to cast this legislation. We had a hearing on this bill in which the various business groups came in and basically did not oppose the legislation. They recognize that raising taxes during a recession is not always the best thing to do, but they understood the predicament the state was in and were willing to make a temporary sacrifice in order to accomplish the balancing of our books, which everyone agrees is our primary goal here.

**SENATOR HUMPHREY:** I didn't hear all of Senator Colantuono's remarks, but I think it is important to point out that the testimony of the business community is not unanimous in favor of this tax increase or enforced loan, if you will. As a member of the Ways and Means Committee, I wouldn't want anybody to be under any illusions about that. The testimony was not unanimous and there was pretty strongly expressed opinion, even by those who were prepared to accept this enforced loan or tax increase, that the intermediate and long term effect of this is to drive jobs from our state. I personally agree with that and I think even the short term effect is harmful and therefore I am going to state my opposition to this bill. It seems to me that we ought to eschew any tax increases and really step up to a bolder level of cost cutting, including if necessary, but not exclusively, shutting down the state government of all, but the most essential services, perhaps one day a week. That is the kind of bold approach to cost cutting that I think we need to take. And that we have gone as far as we should go in raising taxes. I want to state my opposition to this. I think in deference to another member, I have been asked to pair on this vote, but I want to say that if I were voting, I would vote in opposition.

**SENATOR W. KING:** Senator Humphrey, I wasn't at the hearing, so I didn't hear the members of the business community who came

in and testified, but is it your opinion that the business community would have preferred Judd Gregg's 9.6 percent increase in the business profits tax?

SENATOR HUMPHREY: I don't think anyone was ever asked that question.

SENATOR PRESSLY: Senator Colantuono, I find it confusing that this would take effect upon passage. This means that it will have a rather unusual overlap between the fiscal years, which I think is a little bit confusing. Could you elaborate on that please?

SENATOR COLANTUONO: The way the DRA explained this bill is that you can make it effective upon passage and run it for one full year so that you take care of every single type of business, whether they report on the calendar year basis or on some sort of fiscal year basis. If the tax is starting during the middle of their fiscal year, then they will pro rate it and they will start paying the extra tax, April 1 if that is when the passage is, and it will then run until next March 31. So it will pick up every business and treat it in the same manner, as long as you run it for one full year.

SENATOR ST. JEAN: I rise in opposition to this pending piece of legislation. I do so because as Senator Colantuono points out, this is not the time to be raising a business profits tax. During the 80's, we were told by the Republicans who have led this state that they were managers. We were also told on August 25, by Governor Gregg, he called a \$53,000,000 deficit very manageable. The executive order of 90-7 would do the job. Gregg also stated that the BPT reform package he planned to introduce basically addresses the area of enforcement, penalties and definition, and reasonable compensation. I submit to you we have heard nothing yet from the corner office in that regard other than him floating the UBT idea which was dead on arrival and suggesting that they raise the BPT to 9.6 percent which would have made us the highest in the nation. As it is now, I suspect, we are the 8th highest in the nation and I don't think it is time to be raising the BPT. I just think it is wrong for this body to be doing that. You can say what you want about monies that we need, and everything. If you are going to stand in this Senate and vote for taxes, I suspect it is the wrong time to do that. I urge that you strongly consider voting against increasing the BPT.

SENATOR HOLLINGWORTH: We did not vote unanimously as a committee, we had one dissenting vote, to pass this amendment to HB 593. The reason that we support this is because we don't think of it as a tax increase. We think of it as a loan to the state. It is going to give a tax credit back to those businesses who were kind enough to



come before the committee and testified that they would be willing to bear the burden for this short period of time to help the state of New Hampshire. I support this because I think this is the best we can do in very desperate times, and I certainly do not support a long term broad base tax. Because it is true that at 9 percent we are the highest in the nation, but it is certainly better than 9.6 that the Governor would have asked us to pass, I will ask your support for this ought to pass with amendment.

SENATOR HUMPHREY: Senator Hollingworth, it is really a rhetorical question. I apologize for asking it of the Senator, but since she explained that the committee, with one exception, views this as not so much a tax increase, but a loan from the business community to the state, I would ask at what rate of interest does this loan bear?

SENATOR HOLLINGWORTH: As you well know, it bears no interest, but there is a benefit because it can be used as a tax credit in the following year.

SENATOR HUMPHREY: So it can be recouped in the next tax year, but the lender, the business community, will receive no interest on the loan. It is a mandatory interest free loan to the state?

SENATOR HOLLINGWORTH: I guess you could call it mandatory, although as you well know, the majority of the business communities did say that they were more than willing to carry this short term burden for the betterment of the state. I heard only one person in opposition, and they did not speak as you would interpret that they did oppose it. What they said was that they favored this short-term although they would not favor a long-term one percent increase on the BPT. We do recognize that it is unfair for businesses to be carrying the burden and we are hoping that there will be other ways of resolving this problem in the very, very near future.

SENATOR J. KING: Senator Hollingworth, at the committee meeting, it was quite clear by the people who represented the BIA and another business groups that they were in favor of a tax. Would you think, I know I do, that most of the people who voted for that nine percent are highly dependent on the approval by the BIA?

SENATOR HOLLINGWORTH: Absolutely. I repeatedly asked that very hard question of all the business communities that stood before us, why they were there supporting it and they repeatedly said they were doing so because they felt it was something that they could accept at this time.

SENATOR SHAHEEN: Senator Hollingworth, I have a number of businesses in my area, as I am sure you do in yours, who feel that the Business Profits Tax in New Hampshire has become very re-

gressive and unfair, because only a certain number of businesses pay it. They are looking for reform of the business profits tax. They were hoping that Governor Gregg would make good on his promise to reform the business profits tax. Did you, in Ways and Means, talk about looking at some longer term reform of the business profits tax when you agreed that it made sense to pass this short-term increase?

SENATOR HOLLINGWORTH: Absolutely. That is a commitment that we voted on and this is the commitment that we gave to businesses. That this is a temporary increase until we can come to some long-term resolution in which we can help businesses. I believe that that is written into the language of the bill that is passing.

SENATOR HEATH: Senator Colantuono, in the past we have had, in fact almost every time we have adjusted upward the business profits tax, we have had the word temporary written all over it like a billboard, and it has never seemed to be the case. We extend the temporariness, and then we repeal a portion of it, but not the whole thing. What guarantees do you see in supporting this piece of legislation that means anything temporary about it?

SENATOR COLANTUONO: The testimony at the hearing from Representative Sytek, I believe, was that the business profits tax was the one tax that has gone up and then come down every time. I think she mentioned it three times. So the language of the legislation specifically says that it shall expire after one year. And furthermore, I think it is the intent of the body that we are going to take a good hard look at a permanent overhaul of the business profits tax. I don't think there is any sentiment of anyone in this room who wants to leave this at nine percent.

SENATOR HEATH: Senator Colantuono, why in times of terrible business problems and very few making any profit at all should we support legislation that takes a portion of that profit off and gives a portion of it to the state, a larger portion?

SENATOR COLANTUONO: That is a tough thing to do and it is hard to support that. But I think the feeling of the committee was that we had very little choice and it is more important to balance the books. We have to worry about our bond rating. The fact of the matter is a business profits tax only taxes those businesses which are making a profit. It is not a tax on business on the margin or even losing money. Those, among all the people in the state who could afford a temporary small tax increase, that is the one group that can most easily afford to take the temporary hit.

SENATOR ST. JEAN: Would you believe, Senator, that we have changed the BPT five different times and this will be the sixth time?



My question, though, has to do with the overhaul of the BPT. This body, I suspect, is going to vote for the increase. We have heard from Governor Gregg, we have heard that the Senate President has an overhaul plan. Could you tell me what your version of an acceptable overhaul plan for the BPT would be?

SENATOR COLANTUONO: I personally don't have a version. The committee intends to start hearings on a proposal that should be forthcoming from the Senate President.

SENATOR ST. JEAN: Don't you think it would be fairer that we get to see this plan before we go off willy-nilly voting for a one percent increase in the BPT?

SENATOR COLANTUONO: The problem is that, as the testimony at the hearing showed, in order to put this increase in effect for the second quarter of this year, revenue administration has to have legislation this week in order to get the forms ready. There frankly wouldn't be time to do as you suggested, Senator.

PRESIDENT DUPONT: If I could respond to that also, I have spoken to both Senator Colantuono and Senator McLane about the possibility of having Ways and Means have either a public hearing or a work session. I do have a proposal and there are several other proposals out there. They need some time to sit down and look at what is going to be some very complex issues. In order to do those, I think the committee does need some time and we just didn't have the time at this juncture to do that.

SENATOR ST. JEAN: Is your plan ready, Mr. President, and will we see that in the upcoming future or do you have a time frame in which it is going to get into Ways and Means?

PRESIDENT DUPONT: I would hope that Ways and Means within the next week, hopefully, would be able to sit down and have this session that we speak of. I don't want to give anybody false hope. I don't believe that reform of the BPT is going to be any easier now than it was in past years. But I think there is a recognition that many people on both sides would very much like to address BPT reform.

SENATOR PRESSLY: Senator Colantuono, would you believe that I served on the Ways and Means committee of the House when the BPT went from seven to eight?

SENATOR COLANTUONO: I would believe that.

SENATOR PRESSLY: Would you believe that at that time there was a promise that it would come back down to seven?

SENATOR COLANTUONO: I believe that too.

SENATOR PRESSLY: Would you believe that the issue of making the BPT fairer across the state was at that time the hottest issue, the most important thing to be resolved, this was six years ago. Would you believe that, Senator?

SENATOR COLANTUONO: Absolutely.

SENATOR PRESSLY: Would you believe that as hard as I know this committee has worked, that I don't believe anymore and that I will not be able to support this?

SENATOR COLANTUONO: I would believe that.

SENATOR RUSSMAN: I think the fact of the matter is that all of the speakers who have spoken so far are right in part. There is no easy answer to it. None of us who vote in favor of this are going to do so happily, and I think that the BPT tax, while the people who spoke somewhat in favor of it, recognize that there was no other way in the short-term, given the fact that the tax bills have to be sent out within the next couple of weeks in order to get the money coming in. So the question was raised at the hearings as to whether or not they would like something else as an alternative in the short-term and to a person, not one of them had a suggestion for us as a committee but to go along and vote for this particular nine percent tax increase on a temporary basis. It is a tough thing to do, and I think that we are all concerned about Standard and Poors having us on credit watch and what would happen to our bond rating. That would certainly be an important indicator and we also felt what was the message that would be sent to businesses outside of the state who may want to relocate here, if we were going to not balance our budget or have to go on a continuing resolution from one time to another. We felt that this would at least send a message that we do intend to deal with it. It is a credit situation for the businesses. And that it was the best of a bad situation. I would urge you to vote in favor of it.

Senator Blaisdell moved the question.

Adopted.

#### **Amendment to HB 593-FN-A**

Amend the bill by replacing all after the enacting clause with the following:

1 Declaration of Purpose. It is the intention of the New Hampshire legislature that the temporary increase in the rate of the business profits tax imposed in section 2 of this act shall remain in effect only



until such time as the existing business profits tax is modified to reflect more accurately the present business climate in the state of New Hampshire.

2 Temporary Rate of Business Profits Tax. Notwithstanding the provisions of RSA 77-A:2, the tax imposed under RSA 77-A shall be imposed at the rate of 9 percent upon the taxable business profits of every business organization.

3 Temporary Tax Increase to Constitute Tax Credit. It is the intention of the New Hampshire legislature that the amount paid by a business organization under section 2 of this act, which amount constitutes a temporary one percent rate increase which amounts to a percentage differential between the current 8 percent business profits tax and the temporary 9 percent tax, may be recaptured as a tax credit by those business organizations which are required to pay this increase in the tax year following the passage of a modification of the business profits tax or repeal of the temporary rate increase imposed in section 2 of this act.

4 Penalty for Underpayment of Estimated Tax; Exception for Business Organizations. The provisions of RSA 21-J:32, IV(a) and (d) relative to the determination of the exceptions to the imposition of the penalty imposed under RSA 21-J:32 shall not apply to business organizations subject to tax under RSA 77-A to the extent such exceptions would apply to the tax imposed under section 3 of this act.

5 Application of Sections 2 and 4. The provisions of sections 2 and 4 of this act shall:

I. Take effect upon the effective date of this act, regardless of when the taxable period of the business organization begins or ends.

II. Continue for one year from the effective date of this act.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill provides that the business profits tax shall be imposed at the rate of 9 percent for a period of one year beginning on the effective date of the bill.

The bill contains a declaration of purpose that it is the intent of the legislature that the temporary increase shall remain in effect only until the business profits tax is modified, and that business organizations may receive a tax credit for the amount paid under the increased rate amounting to a 1 percent differential, when the tax is so modified.

A Roll Call was requested by Senator Humphrey.

Seconded by Senator Heath.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Colantuono, McLane, Podles, J. King, Russman, Shaheen, Delahunty, Hollingworth.

The following Senators voted No: Heath, Pressly, St. Jean, Cohen.

Yeas: 18

Nays: 4

Paired votes: Senator Nelson and Senator Humphrey.

Amendment Adopted.

Ordered To Third Reading.

**HB 50**, relative to state revenue and expenditures. Appropriations. Ought to pass with amendment. Senator Blaisdell for the committee.

**PRESIDENT DUPONT:** We are going to go through HB 50, which you all should have received information on Thursday, plus the amendment in the calendar. I have asked Charlie Connor from the LBA office to be present so if there are any specific questions, the Senate Finance Committee will respond, and if there is additional information needed, we have asked Mr. Connor to also be present.

**SENATOR BLAISDELL:** First of all may I commend the Senate for making the hard choice, this passing of the business profits tax from 8 to 9 percent puts our supplemental budget in balance. I know it was a hard choice for every one of you. I respect those who voted against the business profits tax. I remind them that since I have been in this Senate, the business profits tax has gone as high as 10.75 percent and it took many moves to bring it down to 7. At least we have reduced it over the years. So I commend this Senate for making the hard choice. I would have liked to have been in the position where I could have voted against it, too. It just couldn't happen this time. I guess the question that you might want to ask of me as the Chairman of Senate Finance is how the Senate Finance report changed HB 50 from the House passed bill. When introduced in the Senate, from the table that I gave you last week, I am sure you noted that this HB 50 was out of balance by about 5.8 million dollars. The House took a couple of months to pass this particular piece of legislation. The Senate has had it for a couple of weeks, so I think we have done a pretty good job to get it on the floor and get it back to the House which I hope they will accept. When we found out that we were 5.8 million dollars in the hole, we looked for different areas to go to. It was further complicated when we heard from the Insurance Commissioner that the 1990 revenues from insurance sources were unfortunately being received in a lesser amount than estimated and



should be revised down to 3.5 million. You notice on page 35 of the report that I gave you last week, we revised the insurance commission revenue from 45 million to 41.5 million to adjust the revenues down. Additionally, it was my opinion and the opinion of the Senate Finance Committee that there appeared very little support in the Senate for the furlough program which contributed to 2.7 million toward the House proposed solution. Our report eliminates the mandatory program. If you can count with me, you can calculate that the size of the program increased from 5.8 million to 12 million dollars. We did, in all sincerity, review the various agencies, what reductions in the various supplemental requests could be made. We had a special hearing on the supplemental budget. I think the most damaging testimony came from Dr. Bird. Dr. Bird told us what would happen on this Friday, if we didn't pass this supplemental budget. The Senate Finance Committee's conclusion was to search a lot deeper for other possible solutions. Luckily, with the help of Senator Hough, I give special credit to Don Shumway, who I think has a lot more credibility in some areas than he used to have. But luckily through the Governor's office, and I want to specifically note that it was the Governor's office who called this Finance Chairman four or five times during the day and adjusted negotiations which he had been running, and Shumway has been running. Senator Hough worked with them. They worked long and tough with the federal Department of Health and Human Services so that New Hampshire would receive an additional \$6,000,000 of federal funds for care provided to indigents in need of mental health services. We started the day at 2 million and later we had 2 and a half million. Then we had 4 million and Senator Hough came back from the Governor and told me it was \$6,000,000. That good news reduced our problem from \$12,000,000 to 6 million. I guess your question now is what do we do about the remaining 6 million. Our solution in the report that you have before you is to have a volunteer furlough program, whereby an employee takes two days off voluntarily during fiscal year 1991 and receives a bonus day that cannot be used until 1993 or earlier if the employee leaves state service. That has an estimated value of \$750,000 and I think that is low. But I want to commend the state employees, the state family that works so hard for the state of New Hampshire on coming up with this program. I believe in the state employees. I believe that they will come up with this \$750,000 and maybe more because they want to be a part of it. I guess maybe they just didn't want an income tax on them and I think I agree with them. Furthermore, at the fiscal committee meeting held on March 4, 1991, there was an audit report of New Hampshire Pari Mutuel commission unclaimed ticket account presented to the committee. We were then informed the unclaimed sums, though deposited with the treasurer,

were not available for appropriation for another year. We changed that. Section 13 provides for ticketholders making claims after January 31, follow the same procedure as currently prescribed by law, except that the treasurer will draw the warrant from funds not otherwise appropriated instead of the unclaimed ticket account. It is a one time event. It will save us about \$600,000. We reviewed one more time, agency budgets to see if there were any appropriations that could be deferred until 1992 without causing serious dislocation. Wastewater treatment plant construction payments due to communities from the state, we found \$320,000 that could be deferred. Finally, we reviewed the source of funds used to fund recent projects, hoping we could find something that we could bond as we have the land trust. In 1987, the Senate was successful in its attempt to establish a capital reserve fund, in which it would hold 50 percent over the revenues received in excess of general fund estimates. Simply put, it was a reserve to capture the excess of the good times and reserve it for the times such as now. That fund grew to nearly \$7,000,000 and was used to provide funds for one time requirements, like providing the match for federal fund disaster program and the relocation of liquor stores to name a few. It also provided the cash for the four projects we are now proposing to be bonded to free up 4.1 million dollars of general fund monies to finance the 1991 supplemental budget. What additional operating appropriations did the Senate Finance Committee add to the bill? We added three. One was for \$2,688 for the New Hampshire board of higher education for the payment of New Hampshire's dues. It is a valuable program and we felt it was worth the \$2,000. We appropriated \$37,749 into the department of labor to reimburse the federal government for expenditures claimed and subsequently disallowed. And finally, \$17,793 to assist the board of tax and land appeals with its backlog of appeals. Section 21 through 24 of the document that I gave you last week, establishes the New Hampshire Economic Development fund administered by the department of resources and economic development and further provides \$5,000,000 for its purpose. Is it a good solution, you might ask? Not particularly, I guess because there are no good solutions available at this time. But it gets the job done, enabling the state to meet its commitments. As Chairman of Finance, I ask you to support it. I think on Friday of this week, as Dr. Bird told us, there will be some serious problems facing the state if we don't pass this supplemental budget. It is a commitment that we made, and it is money that we owe for lights, utilities and anything else you can think of. It is a solution that your Senate Finance worked very hard on to come up with. I think it is fair and it is equitable. I hope this Senate will pass it overwhelmingly.



SENATOR W. KING: Fellow Senators, I am going to be fairly quick. This has been, as the new kid on the block in Senate Finance, both an education and frustrating at times. This has been a very difficult process and a very difficult time for all of us. The Governor handed the Legislature a supplemental budget that was a disaster, asking state employees to essentially pay an income tax to help balance the budget, asking the business community to pay 9.6 percent business profits tax. The House worked on it. They couldn't figure out how to do it and keep it in balance at the same time and it was sent over to us. There were some serious issues with that supplemental budget when it was received by the Senate. We all know about the state employees furlough plan. I think the state employees should be complimented for the fact that they are voluntarily willing to take part in making sure that we end this fiscal year with a balanced budget. It is an awful lot to ask of people, even if they are state employees. It is a lot to ask of them. They have made the commitment to help try and do that. The business community should be applauded for their willingness to go along with the Senate's version of the budget and the tax package that was necessary to implement the supplemental budget. No matter how you look at it, it is not an easy thing for them to do. But we were able to take what was the 9.6 percent business profits tax increase by the Governor and turn that into what is a tax credit against what is next years business profits tax. I think that is a significant achievement on our part and it is a significant step for the business community to take to also participate in the solution to this problem. Seven million dollars in IDA funding that is being used to help balance this budget concerned a lot of people, because if there is one thing we ought to be doing in the state of New Hampshire right now, is creating jobs and spurring economic growth. So the Senate Finance Committee, with the help of Senator Dupont, Mike Kitch and a lot of other people worked out a revolving loan fund so that we would have some money to make up for that loss of \$7,000,000. Finally, one last issue that Senator Blaisdell touched upon and I want to touch upon as well because it affects every single one of our communities. It is a small amount of money, but the Board of Tax and Land Appeals is three years behind on processing appeals for property taxes. Three years behind. And this year it is going to be even worse. It is going to be five years by the end of this year, because of the number of appeals that are coming in. This \$17,000 is money that is well spent. You can go back to your communities and say we did something significant to speed up the process so that people who are having problems with paying their property taxes will be able to get a hearing in a reasonable amount of time.

SENATOR DISNARD: I feel extremely uncomfortable but I will support the supplemental budget. But I wish to express the feelings of many of the Senators in this room that it is extremely unrealistic to bond money for an operating budget. Especially to bond money from dollars already expended, and I refer to the LCIP program. I am not convinced. Others are not convinced that there is collateral existing, if needed, because easements were sold. I am extremely uncomfortable. I think it is a poor business practice and we hope it doesn't continue.

SENATOR ST. JEAN: I want to commend Senate Finance, the Chairmen and members of the committee. I want to take a quote from one of my favorite politicians again. October 2, 1990, Governor Gregg denied Graudmaison's claim of a \$50,000,000 deficit. Gregg said there would be no deficit due to his quick actions. He said that in the Union Leader. "We have aggressively addressed the deficit issue in this state." I submit to you that he did none of that. And Senate Finance did their best to address those issues. I, like Senator Disnard, have some difficulties with using the \$20,000,000 in working capital that we spent for the land trust to bond that in order to balance this supplemental budget. I think that is bad business. There may come a day, perhaps next year, that we may want to bond perhaps the State House or the Old Man of the Mountain if this deficit gets real bad. But for right now, we are going to bond the \$20,000,000 that we spent for trees and things of that like. I urge you, my colleagues, to vote against this supplemental budget.

SENATOR BASS: Senator St. Jean, in fiscal 1989 we bonded an additional \$20,000,000 for the land conservation investment program. What do you see is the difference between the first section and the second section of this program?

SENATOR ST. JEAN: Using the \$20,000,000 in cash, Senator?

SENATOR BASS: The first \$20,000,000 was a cash appropriation. The second \$20,000,000 was bonded. All of those funds, all \$40,000,000, were spent for the same types of purchases, easements, and fee simple purchases. And in fact, most of these purchases were made at a rate of about 50 cents on the dollar. How do you differentiate between not bonding the first part of the program and the Senate's position of having supported bonding for the second part? How does it differ?

SENATOR ST. JEAN: Senator, it was one bad idea and the second part of it even got worse. And I voted against the first bad idea and even the second bonding idea. And my former colleague, Senator Chandler, was with me in that regard.



SENATOR MCLANE: Senator Blaisdell, on page 52 of the amendment, having to do with the parking garage facility, \$61,000. The appropriation ends on June 30, 1991, is there going to be a study of a parking garage facility with that money?

SENATOR BLAISDELL: I believe it is still there, but may I defer to Charlie Connor. Charlie, will you please address that?

SENATOR MCLANE: If I could just add to my question, my concern is whether the city of Concord will have any input if there is going to be a study? And then my question is, is there going to be a study?

SENATOR BLAISDELL: It has already been done, Senator McLane. All we are doing is changing the source of funding. I believe that is all.

SENATOR HEATH: I am rising, obviously, in opposition to voting for this. I know that a lot of work has gone into it. I think you have come up with a better position but it is not good enough. I rose on this floor when we enacted the last budget and said there wasn't enough realistic revenues in there. And there hasn't been. I had assurances then that we were being on the conservative side and obviously we weren't. We go through this cycle and maybe it takes a few years here to see this cycle, but we always talk about how we are going to revise the business profits tax to make it more fair. Yet there is no way to make it more fair without going to an income tax or payroll tax or some other kind of business tax. But the business profits tax, under our constitution, can't be made more fair. You can't get the lawyers, the consultants, the lobbyists, the doctors and the other people we all think, if there is going to be a tax, should be contributors. The only way we can handle these budget situations is prioritize all the things we want or need in the budget or that are already there and fund them as far as the revenues will go, or we are going to constantly go through this. This isn't the end. We will be going into the regular budget session. We are going to go through the same malarkey. And what it is, is we can tie a string around our finger and promise ourselves that we are going to revise this and this is temporary and we all hate to do it. I have heard all these speeches against what we are going to do and now we are going to do it. And, I think it is a shame and I think what we have to do is stand up and say no to the spending that drives the revenues. But what we do, we pretend there is revenues, spend against them, find ourselves in a crisis, make a patch, make a pledge and then come back and do it all over again. I think we have to say no and stop the cycle and get our act together and stop driving the spending. Because every dollar you spend this year, every person that you leave

in the position, will be driving not only that position, but more money and expansion of all those positions. Some are needed. There are areas in our budget, during tough times, that need to expand to help people who are left in tougher situations. But, there are other areas which are frivolous that are still in our budget and I give you one of them just as an example. We have two ski areas that lose money. They have lost money every year, they will always lose money. They compete with people who pay business profits tax in the private sector. We go on funding them and chasing more money after worse money. The Governor is talking about expanding them. This isn't a bare bones budget. There are poor priorities in here and when you vote for this, you are voting to not look at the priorities and to keep chasing this rainbow that is not out there. I would urge you to change your mind. I know that you have the votes to do this, but I urge you to have a last minute attack of conscience. You have people in your districts who are going to suffer if you keep heading down this area of tax and spend. I hate to use a cliché, but that is what we are doing here with the last vote and this vote. And I urge you not to do it.

SENATOR BLAISDELL: Senator Heath, there is no question that some of the things that are in the budget that we are trying to solve today possibly we wouldn't have spent if we knew that the economy was going to be as bad as it is, but do you remember on this Senate floor when you told me that the Christa McAuliffe fund would self-fund itself? Do you remember that?

SENATOR HEATH: Senator, I think if you look at the record, you'll find that I didn't say that. But would you believe that I stood here and said on this floor that those revenues would not come in at the rate that you were estimating them, and you assured me that this was a realistic budget?

SENATOR BLAISDELL: I didn't say that.

SENATOR HOLLINGWORTH: Senator Heath, I also worried about revenues last year, and didn't think the ones that were projected, but this budget that we are talking about, the supplemental budget, is money that was already spent, I recall. Now it is the case that now we owe somebody and we have to pay it. I don't think we can speedily sell the ski areas. So, unless you have some other recommendations for this body, what would you have us do?

SENATOR HEATH: Senator Hollingworth, I guess my answer to that is we have created this little system that locks us in and the system goes like this. We go through the regular budget process, we estimate revenues, we spend against them. The revenues are almost



always unrealistically high. And then we get into this crisis situation late in the budget and we come in and say, "gee, we have already spent this money, we have to do something" and we go looking for it. That is when we do our little revenue hikes. That is when we do that business. I think we have to say no. I don't think the state in the long run is ever going to fail to pay its bills because it has a very deep pocket. I guess I would trust that if this budget were turned down that the people we owe money to would get their money and the next budget process would pay the state back for paying those people and it would get on some sort of fiscal sanity. Instead of going down this sort of domino thing that we do and then have an excuse for doing what we do. It has to stop someplace. If it doesn't stop here, I will be in on the general budget trying to stop it. It has to stop someplace. And I know from what Senator Blaisdell has said that one of the cuts is going to be the Planetarium. I chair that, but it is the people of the state of New Hampshire, to the extent that they want to fund it that they chose to. I respect this body's ability to do that and I don't think that anything should be sacrosanct. I think it should be prioritized.

SENATOR HOLLINGWORTH: Senator Heath, I am not sure, but I think I heard you say that you recognize the fact that we owe that money. In fact, the lights may go out across the river in a few places if we don't pay our bills. And what would you suggest that we do, if we don't pass this now? I understand what you were saying, but the fact is, the reality is, at this moment in time, we have debts that we have to pay and unless you have some other offering that you can offer us, I would be happy to vote on something else, if you could make an offer to me.

SENATOR HEATH: In terms of the lights going out, I would say that the power company would be ill advised to turn the lights out on any state institution. In terms of other bills that we don't pay, we had a lot of testimony this year that we weren't paying our foster children's parents. We don't pay a lot of our bills in a timely fashion. It is simply money management at the state treasury, you pay what you can and what you have to and so on. But I am as concerned as you are because I know where this is going. You have been around here long enough. I think you, in your heart of hearts, know where this is going. Each time we get asked to do the responsible thing, and the responsible thing adds to the problem. This budget adds to the problem. It is rolling up debts into the next budget and we are going to have to deal with that there, where we are borrowing to pay something that we were originally committed to pay cash for. We have to say no someplace. We have to draw a line in the sand and say

enough is enough. I draw here. I drew it on this budget when it was originally proposed. It wasn't right.

SENATOR HUMPHREY: In deference to another Senator, I am going to pair on this vote, but for the record I am going to announce my opposition to the bill for the reasons that Senator Heath stated, and also for the reason that the budget requires and anticipates a tax increase.

SENATOR PRESSLY: I had not intended to speak but in light of the previous Senator's comments I think I would like to explain where I am going to be doing on this. I am going to be voting for this. The portion of it that I find particularly offensive is the business profits tax. I acknowledge the fact that I was on the minority and my thinking did not prevail. That being the case, I then will vote for the budget having lost on the portion that I felt was not a proper taxation.

### RESOLUTION

Senator Delahunty offered a resolution legalizing and ratifying action whereby a hearing was scheduled in the Senate calendar before the bill was formally introduced in the Senate.

SENATOR HEATH: I haven't figured out what that is all about. Could you explain that?

PRESIDENT DUPONT: Senator, there was a hearing posted for this bill and it was advertised prior to the introduction of the bill by a day, I believe. It was put in the calendar prior to when it was introduced. It has had a formal introduction. It is just that there is a time established in our rules that state we have to advertise a hearing five days prior to the time in which that hearing is held. We posted it for the five days. It had the legal hearing, however the bill was not formally introduced until after the hearing was already posted.

Resolution Adopted.

### Amendment to HB 50-FN-A

Amend the bill by replacing all after the enacting clause with the following:

1 Capital Appropriations; Reimbursement of General Fund.

I. The sum of \$20,000,000 is appropriated to reimburse the general fund for the cost of the land conservation investment program authorized in 1987, 340:5.

II. To provide funds for the appropriation made in paragraph I, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$20,000,000 and for said purpose



may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on such bonds and notes shall be made when due from the general fund of the state.

2 Funds Lapsed and Transferred. Notwithstanding any other of provision of law, the following amounts shall be transferred or lapsed, as applicable, to the general fund from the following funds or appropriations, upon the effective date of this section:

I. Department of education:

Account 6030 class 90

Vocational education tuition/transportation \$1,950,000

II. Banking department: small loan fund, fund balance \$250,000

III. Police standards and training council: all funds not exceeding \$1,500,000, but leaving at least \$454,000 in the police standards and training council training fund as of June 30, 1991.

IV. Industrial development authority: fund balance \$7,000,000

3 Interest; Hazardous Waste Cleanup Fund. Amend 1990, 3:38, II and III to read as follows:

II. Notwithstanding RSA 147-B:3, II, all interest received from investments made by the state treasurer under RSA 147-B:3 from [the effective date of this section to June 30, 1990] **February 20, 1990 to June 30, 1991**, shall be credited to the general fund.

III. On and after July 1, [1990] **1991**, all interest received from investments made by the state treasurer under RSA 147-B:3 shall be credited to the hazardous waste cleanup fund.

4 Interest; Oil Pollution Control Fund. Amend 1990, 3:39, II and III to read as follows:

II. Notwithstanding RSA 146-A:11-a, II all interest received from investments made by the state treasurer under RSA 146-A:11-a from [the effective date of this section to June 30, 1990] **February 20, 1990 to June 30, 1991**, shall be credited to the general fund.

III. On and after July 1, [1990] **1991**, all interest received from investments made by the state treasurer under RSA 146-A:11-a shall be credited to the oil pollution control fund.

5 Interest; Oil Discharge and Disposal Cleanup Fund. Amend 1990, 3:40, II and III to read as follows:

II. Notwithstanding RSA 146-D:3, IV all interest received from investments made by the state treasurer under RSA 146-D:3 from [the effective date of this section to June 30, 1990] **February 20, 1990 to June 30, 1991**, shall be credited to the general fund.

III. On and after July 1, [1990] **1991**, all interest received from investments made by the state treasurer under RSA 146-D:3 shall be credited to the oil discharge and disposal cleanup fund.

6 Supplemental Appropriations. In addition to any other sums appropriated for the fiscal year ending June 30, 1991, the following appropriations are hereby authorized to the following departments and agencies. Said appropriations shall be a charge against the funds as specified in the individual appropriations. The governor is authorized to draw his warrant for said sums out of any money in the treasury not otherwise appropriated:



C1 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
01 OFFICE OF THE COMMISSIONER		
02 BUDGET OFFICE		
04 INDIGENT DEFENDERS		
90	ASSIGNED COUNSEL	1,550,000
92	CONTRACT CCUNSEL	50,000
94	ANCILLARY NON-COUNSEL SERVICES	400,000
TOTAL		2,000,000
ESTIMATED SOURCE OF FUNDS FOR		
INDIGENT DEFENDERS		
GENERAL FUND		2,000,000
TOTAL		2,000,000
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
03 DIVISION OF INFORMATION SERVICES		
01 DIS ADMINISTRATION		
28	TRANSFERS TO GEN'L SERVICES	74,598
ESTIMATED SOURCE OF FUNDS FOR		
DIS ADMINISTRATION		
GENERAL FUND		74,598
TOTAL		74,598
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
04 BUREAU OF GRAPHIC SERVICES		
02 PHOTOCOPY OPERATIONS		
28	TRANSFERS TO GEN'L SERVICES	2,274
ESTIMATED SOURCE OF FUNDS FOR		
PHOTOCOPY OPERATIONS		
07	AGENCY INCOME	2,274
TOTAL		2,274
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
01 GENERAL SERVICES ADMINISTRATION		
23	HEAT, ELECTRICITY & WATER	133,240
ESTIMATED SOURCE OF FUNDS FOR		
GENERAL SERVICES ADMINISTRATION		
GENERAL FUND		133,240
TOTAL		133,240
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
04 LEGISLATIVE OFFICE BLDG.		
23	HEAT, ELECTRICITY & WATER	23,108
ESTIMATED SOURCE OF FUNDS FOR		
LEGISLATIVE OFFICE BLDG.		
GENERAL FUND		23,108
TOTAL		23,108

01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
05 OLD MILL #1		
23 HEAT, ELECTRICITY & WATER	8,493	
ESTIMATED SOURCE OF FUNDS FOR		
OLD MILL #1		
01 OTHER AGENCY FUNDS		8,493
TOTAL		8,493
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
06 HEALTH & HUMAN SVCS BLDG		
23 HEAT, ELECTRICITY & WATER	454,865	
ESTIMATED SOURCE OF FUNDS FOR		
HEALTH & HUMAN SVCS BLDG		
01 OTHER AGENCY FUNDS		454,865
TOTAL		454,865
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
07 BRIDGES HOUSE		
23 HEAT, ELECTRICITY & WATER	1,610	
ESTIMATED SOURCE OF FUNDS FOR		
BRIDGES HOUSE		
GENERAL FUND		1,610
TOTAL		1,610
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
08 ANDERSON BLDG		
23 HEAT, ELECTRICITY & WATER	17,355	
ESTIMATED SOURCE OF FUNDS FOR		
ANDERSON BLDG		
GENERAL FUND		17,355
TOTAL		17,355
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
09 SAFETY BUILDING		
23 HEAT, ELECTRICITY & WATER	227,061	
ESTIMATED SOURCE OF FUNDS FOR		
SAFETY BUILDING		
01 OTHER AGENCY FUNDS		227,061
TOTAL		227,061



01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
03 BUREAU OF GENERAL SERVICES		
10 MORTON BUILDING		
23 HEAT, ELECTRICITY & WATER	192,501	
ESTIMATED SOURCE OF FUNDS FOR		
MORTON BUILDING		
02 HIGHWAY FUNDS		192,501
TOTAL		192,501
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
03 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
12 JOHNSON HALL		
23 HEAT, ELECTRICITY & WATER	6,246	
ESTIMATED SOURCE OF FUNDS FOR		
JOHNSON HALL		
01 OTHER AGENCY FUNDS		5,184
09 AGENCY INCOME		1,062
TOTAL		6,246
01 GENERAL GOVERNMENT		
04 DEPT ADMINISTRATIVE SERVICES		
05 DIVISION OF PLANT & PROPERTY		
05 BUREAU OF GENERAL SERVICES		
13 UPHAM-WALKER HOUSE		
23 HEAT, ELECTRICITY & WATER	3,219	
ESTIMATED SOURCE OF FUNDS FOR		
UPHAM-WALKER HOUSE		
GENERAL FUND		3,219
TOTAL		3,219
01 GENERAL GOVERNMENT		
03 SECRETARY OF STATE		
08 ADMIN ATTACHED BOARDS		
01 REAL ESTATE COMMISSION		
01 REAL ESTATE COMMISSION		
28 TRANSFERS TO GEN'L SERVICES	531	
ESTIMATED SOURCE OF FUNDS FOR		
REAL ESTATE COMMISSION		
GENERAL FUND		531
TOTAL		531
01 GENERAL GOVERNMENT		
09 BOARD OF TAX & LAND APPEALS		
01 BOARD OF TAX & LAND APPEALS		
20 CURRENT EXPENSES	12,832	
22 RENT&LEASES OTHER THAN STATE	1,092	
28 TRANSFERS TO GEN'L SERVICES	781	
50 PERSONAL SERVICES - OTHER	3,869	
ESTIMATED SOURCE OF FUNDS FOR		
BOARD OF TAX & LAND APPEALS		
02 TRANSFER FROM DOT		7,429
GENERAL FUND		11,145
TOTAL		18,574

01 GENERAL GOVERNMENT  
 10 NH RETIREMENT SYSTEM  
 02 STATE CONTRIBUTIONS

92 RETIREES HEALTH INSURANCE 587,201

ESTIMATED SOURCE OF FUNDS FOR  
 STATE CONTRIBUTIONS  
 GENERAL FUND  
 TOTAL

587,201  
 587,201

TOTAL

ESTIMATED SOURCE OF FUNDS FOR  
 GENERAL GOVERNMENT

FEDERAL FUNDS 0  
 GENERAL FUNDS 2,852,007  
 OTHER FUNDS 898,869  
 TOTAL 3,750,876

02 ADMIN OF JUSTICE & PUBLIC PRTN

01 JUDICIAL BRANCH  
 02 SUPERIOR COURT

96 WITNESS FEES & EXPENSES 20,000  
 98 JURY FEES & EXPENSES 50,000

TOTAL 70,000

ESTIMATED SOURCE OF FUNDS FOR  
 SUPERIOR COURT

GENERAL FUND 70,000  
 TOTAL 70,000

02 ADMIN OF JUSTICE & PUBLIC PRTN

01 JUDICIAL BRANCH  
 03 PROBATE COURT

97 TPR/GUARDIANSHIP 50,000

ESTIMATED SOURCE OF FUNDS FOR  
 PROBATE COURT

GENERAL FUND 50,000  
 TOTAL 50,000

02 ADMIN OF JUSTICE & PUBLIC PRTN

01 JUDICIAL BRANCH  
 04 DISTRICT AND MUNICIPAL COURTS

93 WITNESS FEES & EXPENSES 120,000

ESTIMATED SOURCE OF FUNDS FOR  
 DISTRICT AND MUNICIPAL COURTS

GENERAL FUND 120,000  
 TOTAL 120,000

02 ADMIN OF JUSTICE & PUBLIC PRTN

02 ADJUTANT GENERAL DEPARTMENT  
 01 NEW HAMPSHIRE NATIONAL GUARD  
 01 CENTRAL ADMINISTRATIVE OFFICE

23 HEAT, ELECTRICITY & WATER 32,100

ESTIMATED SOURCE OF FUNDS FOR  
 CENTRAL ADMINISTRATIVE OFFICE

GENERAL FUND 32,100  
 TOTAL 32,100



02 ADMIN OF JUSTICE & PUBLIC PRTN  
 02 ADJUTANT GENERAL DEPARTMENT  
 01 NEW HAMPSHIRE NATIONAL GUARD  
 04 STATE MILLITARY RESERVATION

23 HEAT, ELECTRICITY & WATER 17,500

ESTIMATED SOURCE OF FUNDS FOR  
 STATE MILLITARY RESERVATION  
 00 FEDERAL FUNDS  
 GENERAL FUND  
 TOTAL

13,125  
 4,375  
 17,500

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 03 AGRICULTURE  
 04 DIV ANIMAL INDUSTRY

28 TRANSFERS TO GEN'L SERVICES 4,094

ESTIMATED SOURCE OF FUNDS FOR  
 DIV ANIMAL INDUSTRY  
 GENERAL FUND  
 TOTAL

4,094  
 4,094

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 07 OFFICE OF EMERGENCY MANAGEMENT  
 01 EMERGENCY MGT. ASSISTANCE  
 01 EMERGENCY MGT. ASSISTANCE

28 TRANSFERS TO GEN'L SERVICES 3,872

ESTIMATED SOURCE OF FUNDS FOR  
 EMERGENCY MGT. ASSISTANCE  
 00 FEDERAL FUNDS  
 GENERAL FUND  
 TOTAL

1,936  
 1,936  
 3,872

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 07 OFFICE OF EMERGENCY MANAGEMENT  
 01 EMERGENCY MGT. ASSISTANCE  
 03 DISASTER CONTINGENCY

96 REQUIRED STATE MATCH AUG 1990 FLOOD 279,886

ESTIMATED SOURCE OF FUNDS FOR  
 DISASTER CONTINGENCY  
 GENERAL FUND  
 TOTAL

279,886  
 279,886

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 08 PARI-MUTUEL COMMISSION  
 02 RACING LABORATORY

28 TRANSFERS TO GEN'L SERVICES 8,643

ESTIMATED SOURCE OF FUNDS FOR  
 RACING LABORATORY  
 GENERAL FUND  
 TOTAL

8,643  
 8,643

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 01 OFFICE OF COMMISSIONER  
 01 OFFICE OF COMMISSIONER

28 TRANSFERS TO GEN'L SERVICES 10,944

ESTIMATED SOURCE OF FUNDS FOR  
 OFFICE OF COMMISSIONER

02 TRANSFER FROM DOT 10,944  
 TOTAL 10,944

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 01 OFFICE OF COMMISSIONER  
 02 BUREAU OF HEARINGS

28 TRANSFERS TO GEN'L SERVICES 5,654

ESTIMATED SOURCE OF FUNDS FOR  
 BUREAU OF HEARINGS

02 TRANSFER FROM DOT 5,654  
 TOTAL 5,654

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 01 OFFICE OF COMMISSIONER  
 03 BUREAU OF FIRE SAFETY

28 TRANSFERS TO GEN'L SERVICES 11,648

ESTIMATED SOURCE OF FUNDS FOR  
 BUREAU OF FIRE SAFETY

GENERAL FUND 11,648  
 TOTAL 11,648

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 01 OFFICE OF COMMISSIONER  
 05 BUREAU OF COMMON CARRIER

28 TRANSFERS TO GEN'L SERVICES 1,044

ESTIMATED SOURCE OF FUNDS FOR  
 BUREAU OF COMMON CARRIER

GENERAL FUND 1,044  
 TOTAL 1,044

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 02 DIVISION OF ADMINISTRATION  
 01 BUSINESS OFFICE

28 TRANSFERS TO GEN'L SERVICES 8,696

ESTIMATED SOURCE OF FUNDS FOR  
 BUSINESS OFFICE

02 TRANSFER FROM DOT 8,696  
 TOTAL 8,696



02 ADMIN OF JUSTICE & PUBLIC PRTN		
15 DEPARTMENT OF SAFETY		
02 DIVISION OF ADMINISTRATION		
02 EQUIPMENT CONTROL		
28 TRANSFERS TO GEN'L SERVICES	2,702	
ESTIMATED SOURCE OF FUNDS FOR		
EQUIPMENT CONTROL		
02 TRANSFER FROM DOT		2,702
TOTAL		2,702
02 ADMIN OF JUSTICE & PUBLIC PRTN		
15 DEPARTMENT OF SAFETY		
02 DIVISION OF ADMINISTRATION		
03 DATA PROCESSING UNIT		
28 TRANSFERS TO GEN'L SERVICES	21,435	
ESTIMATED SOURCE OF FUNDS FOR		
DATA PROCESSING UNIT		
02 TRANSFER FROM DOT		21,435
TOTAL		21,435
02 ADMIN OF JUSTICE & PUBLIC PRTN		
15 DEPARTMENT OF SAFETY		
02 DIVISION OF ADMINISTRATION		
04 AUDIT UNIT		
28 TRANSFERS TO GEN'L SERVICES	4,677	
ESTIMATED SOURCE OF FUNDS FOR		
AUDIT UNIT		
02 TRANSFER FROM DOT		4,677
TOTAL		4,677
02 ADMIN OF JUSTICE & PUBLIC PRTN		
15 DEPARTMENT OF SAFETY		
02 DIVISION OF ADMINISTRATION		
06 ROAD TOLL ADMINISTRATION		
28 TRANSFERS TO GEN'L SERVICES	6,948	
ESTIMATED SOURCE OF FUNDS FOR		
ROAD TOLL ADMINISTRATION		
02 TRANSFER FROM DOT		6,948
TOTAL		6,948
02 ADMIN OF JUSTICE & PUBLIC PRTN		
15 DEPARTMENT OF SAFETY		
03 DIVISION OF MOTOR VEHICLE		
01 DRIVER LICENSING		
28 TRANSFERS TO GEN'L SERVICES	7,532	
ESTIMATED SOURCE OF FUNDS FOR		
DRIVER LICENSING		
02 TRANSFER FROM DOT		7,532
TOTAL		7,532
02 ADMIN OF JUSTICE & PUBLIC PRTN		
15 DEPARTMENT OF SAFETY		
03 DIVISION OF MOTOR VEHICLE		
02 MOTOR VEHICLE REGISTRATION		
28 TRANSFERS TO GEN'L SERVICES	28,354	
ESTIMATED SOURCE OF FUNDS FOR		
MOTOR VEHICLE REGISTRATION		
02 TRANSFER FROM DOT		28,354
TOTAL		28,354

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 03 DIVISION OF MOTOR VEHICLE  
 03 CERTIFICATE OF TITLE

28 TRANSFERS TO GEN'L SERVICES 10,831

ESTIMATED SOURCE OF FUNDS FOR  
 CERTIFICATE OF TITLE

02 TRANSFER FROM DOT 10,831  
 TOTAL 10,831

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 03 DIVISION OF MOTOR VEHICLE  
 04 FINANCIAL RESPONSIBILITY

28 TRANSFERS TO GEN'L SERVICES 17,802

ESTIMATED SOURCE OF FUNDS FOR  
 FINANCIAL RESPONSIBILITY

02 TRANSFER FROM DOT 17,802  
 TOTAL 17,802

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 03 DIVISION OF MOTOR VEHICLE  
 05 ADMIN - DIV OF MOTOR VEHICLE

28 TRANSFERS TO GEN'L SERVICES 5,087

ESTIMATED SOURCE OF FUNDS FOR  
 ADMIN-DIV OF MOTOR VEHICLE

03 TRANSFER FROM DOT 5,087  
 TOTAL 5,087

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 03 DIVISION OF MOTOR VEHICLE  
 06 DRIVER & SAFETY EDUCATION

28 TRANSFERS TO GEN'L SERVICES 1,680

ESTIMATED SOURCE OF FUNDS FOR  
 DRIVER & SAFETY EDUCATION

09 AGENCY INCOME 1,680  
 TOTAL 1,680

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 04 DIVISION OF ENFORCEMENT  
 02 HIGHWAY ENFORCEMENT OFFICERS

28 TRANSFERS TO GEN'L SERVICES 5,699

ESTIMATED SOURCE OF FUNDS FOR  
 HIGHWAY ENFORCEMENT OFFICERS

02 TRANSFER FROM DOT 5,699  
 TOTAL 5,699

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 04 DIVISION OF ENFORCEMENT  
 03 EMISSION CONTROL UNIT

28 TRANSFERS TO GEN'L SERVICES 1,203

ESTIMATED SOURCE OF FUNDS FOR  
 EMISSION CONTROL UNIT

02 TRANSFER FROM DOT 1,203  
 TOTAL 1,203



02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 04 DIVISION OF ENFORCEMENT  
 05 BINGO INSPECTION

28 TRANSFERS TO GEN'L SERVICES 1,317

ESTIMATED SOURCE OF FUNDS FOR  
 BINGO INSPECTION

01 OTHER AGENCY FUNDS 1,317  
 TOTAL 1,317

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 05 DIVISION OF STATE POLICE  
 01 COMMUNICATIONS SECTION

28 TRANSFERS TO GEN'L SERVICES 5,109

ESTIMATED SOURCE OF FUNDS FOR  
 COMMUNICATIONS SECTION

02 TRANSFER FROM DOT 5,109  
 TOTAL 5,109

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 05 DIVISION OF STATE POLICE  
 02 DETECTIVE BUREAU

28 TRANSFERS TO GEN'L SERVICES 36,489

ESTIMATED SOURCE OF FUNDS FOR  
 DETECTIVE BUREAU

02 TRANSFER FROM DOT 25,542  
 GENERAL FUND 10,947  
 TOTAL 36,489

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 05 DIVISION OF STATE POLICE  
 03 TRAFFIC BUREAU

28 TRANSFERS TO GEN'L SERVICES 25,453

ESTIMATED SOURCE OF FUNDS FOR  
 TRAFFIC BUREAU

01 OTHER AGENCY FUNDS 2,418  
 02 TRANSFER FROM DOT 23,035  
 TOTAL 25,453

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 06 DIVISION OF SAFETY SERVICES  
 01 WATERCRAFT SAFETY

28 TRANSFERS TO GEN'L SERVICES 4,882

ESTIMATED SOURCE OF FUNDS FOR  
 WATERCRAFT SAFETY

GENERAL FUND 4,882  
 TOTAL 4,882

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 06 DIVISION OF SAFETY SERVICES  
 02 AERIAL LIFT SAFETY

23 TRANSFERS TO GEN'L SERVICES 1,340

ESTIMATED SOURCE OF FUNDS FOR  
 AERIAL LIFT SAFETY

09 AGENCY INCOME 152  
 GENERAL FUND 1,188  
 TOTAL 1,340

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 15 DEPARTMENT OF SAFETY  
 09 REGULATION OF ELECTRICIANS BD  
 01 ELECTRICIANS BOARD

28 TRANSFERS TO GEN'L SERVICES 1,113

ESTIMATED SOURCE OF FUNDS FOR  
 ELECTRICIANS BOARD

GENERAL FUND 1,113  
 TOTAL 1,113

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 16 DEPARTMENT OF CORRECTIONS  
 03 DIVISION OF ADULT SERVICES  
 02 BUREAU OF PROGRAMS  
 05 MEDICAL & DENTAL

93 OUTSIDE MEDICAL SERVICES 300,000

TOTAL 300,000

ESTIMATED SOURCE OF FUNDS FOR  
 MEDICAL & DENTAL

GENERAL FUND 300,000  
 TOTAL 300,000

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 16 DEPARTMENT OF CORRECTIONS  
 03 DIVISION OF ADULT SERVICES  
 03 BUREAU OF SERVICES  
 01 KITCHEN

21 FOOD INSTITUTIONS 150,000

ESTIMATED SOURCE OF FUNDS FOR  
 KITCHEN

GENERAL FUND 150,000  
 TOTAL 150,000

02 ADMIN OF JUSTICE & PUBLIC PRTN  
 16 DEPARTMENT OF CORRECTIONS  
 04 DIVISION OF FIELD SERVICES  
 01 BUREAU OF DISTRICT OFFICES

28 TRANSFERS TO GEN'L SERVICES 221

ESTIMATED SOURCE OF FUNDS FOR  
 BUREAU OF DISTRICT OFFICES

GENERAL FUND 221  
 TOTAL 221



02 ADMIN OF JUSTICE & PUBLIC PRTN  
 17 DEPT OF EMPLOYMENT SECURITY  
 01 DEPARTMENT OF EMPLOYMENT SECUR

49 TRANS TO OTHER STATE AGYS 1,979

ESTIMATED SOURCE OF FUNDS FOR  
 DEPARTMENT OF EMPLOYMENT SECURITY

00 FEDERAL FUNDS 1,911  
 01 OTHER AGENCY FUNDS 68  
 TOTAL 1,979

TOTAL

ESTIMATED SOURCE OF FUNDS FOR  
 ADMIN OF JUSTICE & PUBLIC PRTN  
 FEDERAL FUNDS

GENERAL FUND 16,972  
 OTHER FUNDS 1,052,077  
 TOTAL 1,265,934

03 RESOURCE PROTECT'N & DEVELOP'T  
 03 RESOURCES & ECONOMIC DEVELOP'T  
 02 ECONOMIC DEVELOPMENT  
 03 VACATION TRAVEL PROMOTION

90 PRINTING ADV BRANCH OFFICE 250,000

ESTIMATED SOURCE OF FUNDS FOR  
 VACATION TRAVEL PROMOTION

GENERAL FUND 250,000  
 TOTAL 250,000

03 RESOURCE PROTECT'N & DEVELOP'T  
 03 RESOURCES & ECONOMIC DEVELOP'T  
 04 PARKS AND RECREATION  
 02 PARKS FRANCONIA - SUNAPEE  
 01 PARKS FRANCONIA

23 HEAT, ELECTRICITY & WATER 58,000  
 50 PERSONAL SERVICES - OTHER 50,000  
 60 BENEFITS 6,300  
 90 SNOWMAKING 75,000

TOTAL 189,300

ESTIMATED SOURCE OF FUNDS FOR  
 PARKS FRANCONIA

GENERAL FUND 189,300  
 TOTAL 189,300

03 RESOURCE PROTECT'N & DEVELOP'T  
 03 RESOURCES & ECONOMIC DEVELOP'T  
 04 PARKS AND RECREATION  
 02 PARKS FRANCONIA - SUNAPEE  
 02 PARKS SUNAPEE

23 HEAT, ELECTRICITY & WATER 68,000  
 50 PERSONAL SERVICES - OTHER 106,000  
 60 BENEFITS 16,000  
 90 SNOWMAKING 75,000

TOTAL 265,000

ESTIMATED SOURCE OF FUNDS FOR  
 PARKS SUNAPEE

GENERAL FUND 265,000  
 TOTAL 265,000

03 RESOURCE PROTECT'N & DEVELOP'T  
 04 DEPT OF ENVIRONMENTAL SERVICES  
 01 OFFICE OF THE COMMISSIONER  
 01 ADMINISTRATION & SUPPORT

28 TRANSFERS TO GEN'L SERVICES 10,682

ESTIMATED SOURCE OF FUNDS FOR  
 ADMINISTRATION & SUPPORT

00 FEDERAL FUNDS

139

GENERAL FUND

10,543

TOTAL

10,682

03 RESOURCE PROTECT'N & DEVELOP'T  
 04 DEPT OF ENVIRONMENTAL SERVICES  
 01 OFFICE OF THE COMMISSIONER  
 02 LABORATORY COST CENTER

28 TRANSFERS TO GEN'L SERVICES 29,040

ESTIMATED SOURCE OF FUNDS FOR  
 LABORATORY COST CENTER

GENERAL FUND

29,040

TOTAL

29,040

03 RESOURCE PROTECT'N & DEVELOP'T  
 04 DEPT OF ENVIRONMENTAL SERVICES  
 03 DIVISION OF WATER POLLUTION CONTROL  
 01 WATER POLLUTION PROGRAMS  
 01 POLLUTION CONTROL PROGRAM

28 TRANSFERS TO GEN'L SERVICES 14,831

ESTIMATED SOURCE OF FUNDS FOR  
 POLLUTION CONTROL PROGRAM

GENERAL FUND

14,831

TOTAL

14,831

03 RESOURCE PROTECT'N & DEVELOP'T  
 04 DEPT OF ENVIRONMENTAL SERVICES  
 03 DIVISION OF WATER POLLUTION CONTROL  
 01 WATER POLLUTION PROGRAMS  
 02 SECTION 106 GRANT

28 TRANSFERS TO GEN'L SERVICES 3,111

ESTIMATED SOURCE OF FUNDS FOR  
 SECTION 106 GRANT

00 FEDERAL FUNDS

3,111

TOTAL

3,111

03 RESOURCE PROTECT'N & DEVELOP'T  
 04 DEPT OF ENVIRONMENTAL SERVICES  
 03 DIVISION OF WATER POLLUTION CONTROL  
 03 CONSTRUCTION GRANTS-ADMIN

28 TRANSFERS TO GEN'L SERVICES 7,882

ESTIMATED SOURCE OF FUNDS FOR  
 CONSTRUCTION GRANTS-ADMIN

00 FEDERAL FUNDS

7,882

TOTAL

7,882



03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
04	WATER SUPPLY PROGRAMS		
01	SAFE DRINKING WATER ACT		
28	TRANSFERS TO GEN'L SERVICES	2,696	
	ESTIMATED SOURCE OF FUNDS FOR		
	SAFE DRINKING WATER ACT		
00	FEDERAL FUNDS		2,696
	TOTAL		2,696
03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
05	WINNIPESAUKEE RIVER BASIN		
28	TRANSFERS TO GEN'L SERVICES	830	
	ESTIMATED SOURCE OF FUNDS FOR		
	WINNIPESAUKEE RIVER BASIN		
05	PRIVATE LOCAL FUNDS		830
	TOTAL		830
03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
06	GROUNDWATER PROGRAMS		
01	OIL POLLUTION CONTROL FUND		
28	TRANSFERS TO GEN'L SERVICES	1,970	
	ESTIMATED SOURCE OF FUNDS FOR		
	OIL POLLUTION CONTROL FUND		
09	AGENCY INCCME		1,970
	TOTAL		1,970
03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
06	GROUNDWATER PROGRAMS		
02	UNDERGROUND STORAGE TANK		
28	TRANSFERS TO GEN'L SERVICES	726	
	ESTIMATED SOURCE OF FUNDS FOR		
	UNDERGROUND STORAGE TANK		
	GENERAL FUND		726
	TOTAL		726
03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
06	GROUNDWATER PROGRAMS		
03	FEDERAL UST PROGRAM		
28	TRANSFERS TO GEN'L SERVICES	830	
	ESTIMATED SOURCE OF FUNDS FOR		
	FEDERAL UST PROGRAM		
00	FEDERAL FUNDS		830
	TOTAL		830

03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
06	GROUNDWATER PROGRAMS		
04	LUST TRUST PROGRAM		
28	TRANSFERS TO GEN'L SERVICES	3,111	
	ESTIMATED SOURCE OF FUNDS FOR		
	LUST TRUST PROGRAM		
	00 FEDERAL FUNDS		3,111
	TOTAL		3,111
03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
06	GROUNDWATER PROGRAMS		
05	UNDERGROUND INJECTION CONTROL		
28	TRANSFERS TO GEN'L SERVICES	414	
	ESTIMATED SOURCE OF FUNDS FOR		
	UNDERGROUND INJECTION CONTROL		
	00 FEDERAL FUNDS		414
	TOTAL		414
03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
07	SUBSURFACE WASTE DISPOSAL		
28	TRANSFERS TO GEN'L SERVICES	10,267	
	ESTIMATED SOURCE OF FUNDS FOR		
	SUBSURFACE WASTE DISPOSAL		
	GENERAL FUND		10,267
	TOTAL		10,267
03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
03	DIVISION OF WATER POLLUTION CONTROL		
08	WATER QUALITY PLANNING - 205J		
28	TRANSFERS TO GEN'L SERVICES	1,348	
	ESTIMATED SOURCE OF FUNDS FOR		
	WATER QUALITY PLANNING - 205J		
	00 FEDERAL FUNDS		1,348
	TOTAL		1,348
03	RESOURCE PROTECT'N & DEVELOP'T		
04	DEPT OF ENVIRONMENTAL SERVICES		
04	DIV OF AIR RESOURCES		
01	ADMINISTRATION & ENGINEERING		
28	TRANSFERS TO GEN'L SERVICES	933	
	ESTIMATED SOURCE OF FUNDS FOR		
	ADMINISTRATION & ENGINEERING		
	GENERAL FUND		933
	TOTAL		933



03 RESOURCE PROTECT'N & DEVELOP'T		
04 DEPT OF ENVIRONMENTAL SERVICES		
05 DIV OF WASTE MANAGEMENT		
01 RCRA PROGRAMS		
28 TRANSFERS TO GEN'L SERVICES	2,178	
ESTIMATED SOURCE OF FUNDS FOR		
RCRA PROGRAMS		
00 FEDERAL FUNDS		2,178
TOTAL		2,178
03 RESOURCE PROTECT'N & DEVELOP'T		
04 DEPT OF ENVIRONMENTAL SERVICES		
05 DIV OF WASTE MANAGEMENT		
02 NON-RCRA PROGRAMS		
28 TRANSFERS TO GEN'L SERVICES	6,534	
ESTIMATED SOURCE OF FUNDS FOR		
NON-RCRA PROGRAMS		
09 AGENCY INCOME		28
GENERAL FUND		6,506
TOTAL		6,534
03 RESOURCE PROTECT'N & DEVELOP'T		
04 DEPT OF ENVIRONMENTAL SERVICES		
05 DIV OF WASTE MANAGEMENT		
03 HAZARDOUS WASTE FUND		
28 TRANSFERS TO GEN'L SERVICES	1,452	
49 TRANS TO OTHER STATE AGYS	1,659	
ESTIMATED SOURCE OF FUNDS FOR		
HAZARDOUS WASTE FUND		
03 REVOLVING FUNDS		3,111
TOTAL		3,111
03 RESOURCE PROTECT'N & DEVELOP'T		
04 DEPT OF ENVIRONMENTAL SERVICES		
05 DIV OF WASTE MANAGEMENT		
04 SOLID WASTE PROGRAMS		
02 COMMUNITY TECHNICAL ASSISTANCE		
20 TRANSFERS TO GEN'L SERVICES	415	
ESTIMATED SOURCE OF FUNDS FOR		
COMMUNITY TECHNICAL ASSISTANCE		
GENERAL FUND		415
TOTAL		415
03 RESOURCE PROTECT'N & DEVELOP'T		
04 DEPT OF ENVIRONMENTAL SERVICES		
05 DIV OF WASTE MANAGEMENT		
05 HAZARDOUS WASTE PROGRAMS		
01 HAZARDOUS WASTE INVESTIGATIVE		
28 TRANSFERS TO GEN'L SERVICES	1,659	
ESTIMATED SOURCE OF FUNDS FOR		
HAZARDOUS WASTE INVESTIGATIVE		
01 OTHER AGENCY FUNDS		1,659
TOTAL		1,659

03 RESOURCE PROTECT'N & DEVELOP'T		
04 DEPT OF ENVIRONMENTAL SERVICES		
05 DIV OF WASTE MANAGEMENT		
05 HAZARDOUS WASTE PROGRAMS		
03 KEEFE HAZARDOUS WASTE SITE		
28 TRANSFERS TO GEN'L SERVICES	207	
ESTIMATED SOURCE OF FUNDS FOR		
KEEFE HAZARDOUS WASTE SITE		
00 FEDERAL FUNDS		207
TOTAL		207
03 RESOURCE PROTECT'N & DEVELOP'T		
04 DEPT OF ENVIRONMENTAL SERVICES		
05 DIV OF WASTE MANAGEMENT		
05 HAZARDOUS WASTE PROGRAMS		
04 MULTI-SITE PROGRAM		
28 TRANSFERS TO GEN'L SERVICES	1,141	
ESTIMATED SOURCE OF FUNDS FOR		
MULTI-SITE PROGRAM		
00 FEDERAL FUNDS		1,141
TOTAL		1,141
03 RESOURCE PROTECT'N & DEVELOP'T		
04 DEPT OF ENVIRONMENTAL SERVICES		
05 DIV OF WASTE MANAGEMENT		
05 HAZARDOUS WASTE PROGRAMS		
05 CORE PROGRAM		
28 TRANSFERS TO GEN'L SERVICES	1,452	
ESTIMATED SOURCE OF FUNDS FOR		
CORE PROGRAM		
00 FEDERAL FUNDS		1,452
TOTAL		1,452
TOTAL		
ESTIMATED SOURCE OF FUNDS FOR		
RESOURCE PROTECT'N & DEVELOP'T		
FEDERAL FUNDS		24,509
GENERAL FUNDS		777,561
OTHER FUNDS		7,598
TOTAL		809,668
04 TRANSPORTATION		
01 DEPARTMENT OF TRANSPORTATION		
02 OPERATIONS DIVISION		
05 OTHER OPERATIONS		
01 LAND & BUILDINGS		
28 TRANSFERS TO GEN'L SERVICES	192,501	
ESTIMATED SOURCE OF FUNDS FOR		
LAND & BUILDING		
HIGHWAY FUNDS		192,501
TOTAL		192,501



04	TRANSPORTATION		
01	DEPARTMENT OF TRANSPORTATION		
07	OTHER HIGHWAY SUPPORT		
04	TRANSFERS TO OTHER AGENCIES		
49	TRANS TO OTHER STATE AGYS		396,741
	ESTIMATED SOURCE OF FUNDS FOR		
	TRANSFERS TO OTHER AGENCIES		
	HIGHWAY FUNDS		396,741
	TOTAL		396,741
04	TRANSPORTATION		
01	DEPARTMENT OF TRANSPORTATION		
08	TURNPIKES		
01	ADMINISTRATION		
49	TRANS TO OTHER STATE AGYS		2,418
	ESTIMATED SOURCE OF FUNDS FOR		
	TRANSFERS TO OTHER AGENCIES		
	TURNPIKE		2,418
	TOTAL		2,418
	TOTAL		
	ESTIMATED SOURCE OF FUNDS FOR		
	TRANSPORTATION		
	FEDERAL FUNDS		0
	GENERAL FUNDS		0
	OTHER FUNDS		591,660
	TOTAL		591,660
05	HEALTH AND SOCIAL SERVICES		
01	DEPT OF HEALTH AND HUMAN SVCS		
01	HLTH & HUMAN SVCS COMMISSIONER		
01	ADMINISTRATION		
28	TRANSFERS TO GEN'L SERVICES	7,733	
	ESTIMATED SOURCE OF FUNDS FOR		
	ADMINISTRATION		
	GENERAL FUND		7,733
	TOTAL		7,733
05	HEALTH AND SOCIAL SERVICES		
01	DEPT OF HEALTH AND HUMAN SVCS		
01	HLTH & HUMAN SVCS COMMISSIONER		
04	OFFICE OF MGT & BUDGET		
01	OFFICE OF MGT & BUDGET		
28	TRANSFERS TO GEN'L SERVICES	121,646	
	ESTIMATED SOURCE OF FUNDS FOR		
	OFFICE OF MGT & BUDGET		
	GENERAL FUND		88,814
	FEDERAL FUNDS		32,832
	TOTAL		121,646
05	HEALTH AND SOCIAL SERVICES		
01	DEPT OF HEALTH AND HUMAN SVCS		
01	HLTH & HUMAN SVCS COMMISSIONER		
02	ALCOHOL AND DRUG ABUSE PREVENT		
03	TREATMENT & PREVENTION-FEDERAL		
28	TRANSFERS TO GEN'L SERVICES	59	
	ESTIMATED SOURCE OF FUNDS FOR		
	TREATMENT & PREVENTION-FEDERAL		
	00 FEDERAL FUNDS		59
	TOTAL		59

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 02 DIV OF PUBLIC HEALTH SERVICES  
 01 ADMINISTRATION & SUPPORT  
 01 OFFICE OF DIRECTOR

28 TRANSFERS TO GEN'L SERVICES 7,582

ESTIMATED SOURCE OF FUNDS FOR  
 OFFICE OF DIRECTOR

00 FEDERAL FUNDS 1,879  
 GENERAL FUND 5,703  
 TOTAL 7,582

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 02 DIV OF PUBLIC HEALTH SERVICES  
 01 ADMINISTRATOIN & SUPPORT  
 03 INFORMATION SERVICES

28 TRANSFERS TO GEN'L SERVICES 14,869

ESTIMATED SOURCE OF FUNDS FOR  
 INFORMATION SERVICES

GENERAL FUND 14,869  
 TOTAL 14,869

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 02 DIV OF PUBLIC HEALTH SERVICES  
 02 HEALTH PROTECTION  
 02 FACILITIES LICENSING

28 TRANSFERS TO GEN'L SERVICES 2,735

ESTIMATED SOURCE OF FUNDS FOR  
 FACILITIES LICENSING

00 FEDERAL FUNDS 506  
 01 OTHER AGENCY FUNDS 1,190  
 GENERAL FUND 1,039  
 TOTAL 2,735

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 02 DIV OF PUBLIC HEALTH SERVICES  
 02 HEALTH PROTECTION  
 03 EMERGENCY MEDICAL SERVICES

28 TRANSFERS TO GEN'L SERVICES 2,571

ESTIMATED SOURCE OF FUNDS FOR  
 EMERGENCY MEDICAL SERVICES

00 FEDERAL FUNDS 2,322  
 GENERAL FUND 249  
 TOTAL 2,571

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 02 DIV OF PUBLIC HEALTH SERVICES  
 02 HEALTH PROTECTION  
 04 HEALTH PROMOTION

28 TRANSFERS TO GEN'L SERVICES 2,934

ESTIMATED SOURCE OF FUNDS FOR  
 HEALTH PROMOTION

00 FEDERAL FUNDS 2,157  
 GENERAL FUND 777  
 TOTAL 2,934



## 05 HEALTH AND SOCIAL SERVICES

- 01 DEPT OF HEALTH AND HUMAN SVCS
- 02 DIV OF PUBLIC HEALTH SERVICES
- 02 HEALTH PROTECTION
- 06 CHILD CARE STDS & LICENSING

28 TRANSFERS TO GEN'L SERVICES 3,005

ESTIMATED SOURCE OF FUNDS FOR  
CHILD CARE STDA & LICENSING

00 FEDERAL FUNDS 2,536  
GENERAL FUND 469  
TOTAL 3,005

## 05 HEALTH AND SOCIAL SERVICES

- 01 DEPT OF HEALTH AND HUMAN SVCS
- 02 DIV OF PUBLIC HEALTH SERVICES
- 03 DISEASE PREVENTION & CONTROL
- 01 DISEASE PREV & CONTROL ADMIN

28 TRANSFERS TO GEN'L SERVICES 763

ESTIMATED SOURCE OF FUNDS FOR  
DISEASE PREV & CONTROL ADMIN  
GENERAL FUND

TOTAL 763

## 05 HEALTH AND SOCIAL SERVICES

- 01 DEPT OF HEALTH AND HUMAN SVCS
- 02 DIV OF PUBLIC HEALTH SERVICES
- 03 DISEASE PREVENTION & CONTROL
- 02 DISEASE CONTROL

28 TRANSFERS TO GEN'L SERVICES 2,864

ESTIMATED SOURCE OF FUNDS FOR  
DISEASE CONTROL  
GENERAL FUND

TOTAL 2,864

## 05 HEALTH AND SOCIAL SERVICES

- 01 DEPT OF HEALTH AND HUMAN SVCS
- 02 DIV OF PUBLIC HEALTH SERVICES
- 03 DISEASE PREVENTION & CONTROL
- 03 PUBLIC HEALTH LABORATORIES

28 TRANSFERS TO GEN'L SERVICES 44,736

ESTIMATED SOURCE OF FUNDS FOR  
PUBLIC HEALTH LABORATORIES

01 OTHER AGENCY FUNDS 841  
02 TRANSFER FROM DOT 5,561  
05 PRIVATE LOCAL FUNDS 15,174  
GENERAL FUND 23,160  
TOTAL 44,736

## 05 HEALTH AND SOCIAL SERVICES

- 01 DEPT OF HEALTH AND HUMAN SVCS
- 02 DIV OF PUBLIC HEALTH SERVICES
- 03 DISEASE PREVENTION & CONTROL
- 04 ENVIRONMENTAL HEALTH

28 TRANSFERS TO GEN'L SERVICES 1,174

ESTIMATED SOURCE OF FUNDS FOR  
ENVIRONMENTAL HEALTH

09 AGENCY INCOME 675  
GENERAL FUND 499  
TOTAL 1,174

05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
03 DISEASE PREVENTION & CONTROL		
05 IMMUNIZATION PROGRAM		
28	TRANSFERS TO GEN'L SERVICES	2,571
ESTIMATED SOURCE OF FUNDS FOR		
IMMUNIZATION PROGRAM		
00	FEDERAL FUNDS	394
	GENERAL FUND	2,177
	TOTAL	2,571
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
03 DISEASE PREVENTION & CONTROL		
06 STD PROGRAM		
28	TRANSFERS TO GEN'L SERVICES	1,573
ESTIMATED SOURCE OF FUNDS FOR		
STD PROGRAM		
00	FEDERAL FUNDS	1,071
	GENERAL FUND	502
	TOTAL	1,573
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
03 DISEASE PREVENTION & CONTROL		
07 OCCUPATIONAL HEALTH SERVICE		
28	TRANSFERS TO GEN'L SERVICES	341
ESTIMATED SOURCE OF FUNDS FOR		
OCCUPATIONAL HEALTH SERVICE		
00	FEDERAL FUNDS	185
01	OTHER AGENCY FUNDS	148
03	REVOLVING FUNDS	8
	TOTAL	341
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
03 DISEASE PREVENTION & CONTROL		
08 EMERGENCY RESPONSE		
28	TRANSFERS TO GEN'L SERVICES	1,397
ESTIMATED SOURCE OF FUNDS FOR		
EMERGENCY RESPONSE		
01	OTHER AGENCY FUNDS	1,397
	TOTAL	1,397
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
03 DISEASE PREVENTION & CONTROL		
09 RADIOLOGICAL HEALTH		
28	TRANSFERS TO GEN'L SERVICES	529
ESTIMATED SOURCE OF FUNDS FOR		
RADIOLOGICAL HEALTH		
09	AGENCY INCOME	103
	GENERAL FUND	426
	TOTAL	529



05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
04 FAMILY AND COMMUNITY HEALTH		
01 FAMILY & COMMUNITY HEALTH ADM		
28 TRANSFERS TO GEN'L SERVICES	857	
ESTIMATED SOURCE OF FUNDS FOR		
FAMILY & COMMUNITY HEALTH ADM		
00 FEDERAL FUNDS		470
GENERAL FUND		387
TOTAL		857
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
04 FAMILY AND COMMUNITY HEALTH		
02 MATERNAL AND CHILD HEALTH		
28 TRANSFERS TO GEN'L SERVICES	4,413	
ESTIMATED SOURCE OF FUNDS FOR		
MATERNAL AND CHILD HEALTH		
00 FEDERAL FUNDS		1,787
GENERAL FUND		2,626
TOTAL		4,413
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
04 FAMILY AND COMMUNITY HEALTH		
03 SPECIAL MEDICAL SERVICES		
28 TRANSFERS TO GEN'L SERVICES	9,295	
ESTIMATED SOURCE OF FUNDS FOR		
SPECIAL MEDICAL SERVICES		
00 FEDERAL FUNDS		2,935
GENERAL FUND		6,360
TOTAL		9,295
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
04 FAMILY AND COMMUNITY HEALTH		
05 WIC-SUPPLEMENTAL FOOD		
28 TRANSFERS TO GEN'L SERVICES	4,002	
ESTIMATED SOURCE OF FUNDS FOR		
WIC-SUPPLEMENTAL FOOD		
00 FEDERAL FUNDS		3,948
GENERAL FUND		54
TOTAL		4,002
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
02 DIV OF PUBLIC HEALTH SERVICES		
04 FAMILY AND COMMUNITY HEALTH		
06 FAMILY PLANNING PROGRAM		
28 TRANSFERS TO GEN'L SERVICES	2,148	
ESTIMATED SOURCE OF FUNDS FOR		
FAMILY PLANNING PROGRAM		
00 FEDERAL FUNDS		1,238
GENERAL FUND		910
TOTAL		2,148

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 02 DIV OF PUBLIC HEALTH SERVICES  
 05 HEALTH RISK ASSESSMENT  
 01 HEALTH RISK ASSESSMENT

28 TRANSFERS TO GEN'L SERVICES 1,139

ESTIMATED SOURCE OF FUNDS FOR  
 HEALTH RISK ASSESSMENT  
 GENERAL FUND  
 TOTAL

1,139  
 1,139

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 02 DIV OF PUBLIC HEALTH SERVICES  
 07 HEALTH SERVICES PLANNING & RVW

28 TRANSFERS TO GEN'L SERVICES 5,857

ESTIMATED SOURCE OF FUNDS FOR  
 HEALTH SERVICES PLANNING & RVW  
 09 AGENCY INCOME  
 GENERAL FUND  
 TOTAL

4,663  
 1,194  
 5,857

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 03 DIV FOR CHILDREN & YOUTH SVCS  
 01 OFFICE OF DIRECTOR  
 01 OFFICE OF DIRECTOR - C & Y

28 TRANSFERS TO GEN'L SERVICES 19,559

ESTIMATED SOURCE OF FUNDS FOR  
 OFFICE OF DIRECTOR - C & Y  
 GENERAL FUND  
 TOTAL

19,559  
 19,559

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 03 DIV FOR CHILDREN & YOUTH SVCS  
 02 BUREAU OF CHILDREN  
 04 C&Y TITLE IVE GRANTS

90 FOSTER CARE 1,066,667

ESTIMATED SOURCE OF FUNDS FOR  
 C&Y TITLE IVE GRANTS  
 GENERAL FUND  
 FEDERAL FUNDS  
 05 PRIVATE LOCAL FUNDS  
 TOTAL

400,000  
 533,333  
 133,334  
 1,066,667

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 03 DIV FOR CHILDREN & YOUTH SVCS  
 02 BUREAU OF CHILDREN  
 07 DCYS - SETTLEMENT

90 DCYS SETTLEMENT 3,466,667

ESTIMATED SOURCE OF FUNDS FOR  
 DCYS - SETTLEMENT  
 GENERAL FUND  
 FEDERAL FUNDS  
 OTHER  
 TOTAL

2,600,000  
 0  
 866,667  
 3,466,667



05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 03 DIV FOR CHILDREN & YOUTH SVCS  
 05 BUREAU OF RESIDENTIAL SERVICES  
 03 OPERATION AND MAINTENANCE

23 HEAT, ELECTRICITY & WATER 46,667

ESTIMATED SOURCE OF FUNDS FOR  
 OPERATION AND MAINTENANCE  
 GENERAL FUND  
 TOTAL

46,667  
 46,667

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 04 DIVISION OF HUMAN SERVICES  
 02 PROGRAM OPERATIONS  
 02 MEDICAL SERVICES

49 TRANS TO OTHER STATE AGYS 1,190

ESTIMATED SOURCE OF FUNDS FOR  
 OPERATION AND MAINTENANCE  
 00 FEDERAL FUNDS  
 GENERAL FUND  
 TOTAL

595  
 595  
 1,190

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 04 DIVISION OF HUMAN SERVICES  
 05 GRANTS  
 01 FINANCIAL GRANTS

90 AFDC 8,000,000

TOTAL 8,000,000

ESTIMATED SOURCE OF FUNDS FOR  
 FINANCIAL GRANTS  
 GENERAL FUND  
 FEDERAL FUNDS  
 OTHER  
 TOTAL

4,000,000  
 4,000,000  
 0  
 8,000,000

05 HEALTH AND SOCIAL SERVICES  
 01 DEPT OF HEALTH AND HUMAN SVCS  
 04 DIVISION OF HUMAN SERVICES  
 05 GRANTS  
 02 OAA APTD GRANTS

91 APTD GRANTS 850,000

TOTAL 850,000

ESTIMATED SOURCE OF FUNDS FOR  
 OAA APTD GRANTS  
 GENERAL FUND  
 OTHER FUNDS  
 TOTAL

425,000  
 425,000  
 850,000

05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
04 DIVISION OF HUMAN SERVICES		
05 GRANTS		
05 MEDICAL GRANTS		
90 PROVIDER PAYMENT	8,437,867	
91 HCBC ECI	2,000,000	
TOTAL		10,437,867
ESTIMATED SOURCE OF FUNDS FOR		
MEDICAL GRANTS		
GENERAL FUND		5,000,000
FEDERAL FUNDS		5,000,000
OTHER		437,867
TOTAL		10,437,867
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
04 DIVISION OF HUMAN SERVICES		
05 GRANTS		
07 OTHER NURSING HOMES		
90 OTHER NURSING HOMES	1,250,000	
ESTIMATED SOURCE OF FUNDS FOR		
OTHER NURSING HOMES		
GENERAL FUND		625,000
FEDERAL FUNDS		625,000
OTHER		0
TOTAL		1,250,000
05 HEALTH AND SOCIAL SERVICES		
01 DEPT OF HEALTH AND HUMAN SVCS		
05 DIVISION OF MENTAL HEALTH		
04 NEW HAMPSHIRE HOSPITAL		
03 CLINIC SUPPORT		
49 TRANS TO OTHER STATE AGYS	841	
ESTIMATED SOURCE OF FUNDS FOR		
MEDICAL SERVICES		
GENERAL FUND		841
TOTAL		841
05 HEALTH & SOCIAL SERVICES		
01 DEPARTMENT OF HEALTH & HUMAN SERVICES		
07 ADMIN ATTACHED BOARDS		
02 COSMETOLOGY & BARBERS BD		
01 COSMETOLOGY & BARBERS BD		
28 TRANSFERS TO GEN'L SERVICES	910	
ESTIMATED SOURCE OF FUNDS FOR		
COSMETOLOGY & BARBERS BD		
GENERAL FUND		910
TOTAL		910
ESTIMATED SOURCE OF FUNDS FOR		
DEPT OF HEALTH AND HUMAN SVCS		
GENERAL FUNDS		13,281,286
FEDERAL FUNDS		10,213,247
OTHER		1,892,628
TOTAL		25,387,161



## 06 EDUCATION

## 03 DEPARTMENT OF EDUCATION

## 02 OFFICE OF ADMINISTRATION

## 04 FIN'L AID TO DISTRICTS - STATE

## 02 BUILDING AID

## 90 BUILDING AID

483,000

## ESTIMATED SOURCE OF FUNDS FOR

## BUILDING AID

## GENERAL FUND

483,000

## FEDERAL FUNDS

0

## OTHER

0

## TOTAL

483,000

## 06 EDUCATION

## 03 DEPARTMENT OF EDUCATION

## 03 DIVISION OF INSTRUCTION

## 06 SPECIAL EDUCATION

## 07 SPEC. ED. CHAPTER 402:26

## 90 GRANTS, SUBSIDIES, CONTRIBUTIONS

1,000,000

## ESTIMATED SOURCE OF FUNDS FOR

## SPEC. ED. CHAPTER 402:26

## GENERAL FUND

1,000,000

## FEDERAL FUNDS

0

## OTHER

0

## TOTAL

1,000,000

## 06 EDUCATION

## 05 N.H SWEEPSTAKES COMMISSION

## 02 BINGO LUCKY 7

## 49 TRANS TO OTHER STATE AGYS

1,317

## ESTIMATED SOURCE OF FUNDS FOR

## BINGO LUCKY 7

## GENERAL FUND

0

## FEDERAL FUNDS

0

## OTHER

1,317

## TOTAL

1,317

## ESTIMATED SOURCE OF FUNDS FOR

## DEPARTMENT OF EDUCATION

## FEDERAL FUNDS

0

## GENERAL FUNDS

1,483,000

## OTHER FUNDS

1,317

## TOTAL

1,484,317

## TOTAL APPROPRIATIONS AS INCLUDED IN CATEGORY 01 THRU AND INCLUDING 06

## FEDERAL FUNDS

10,254,728

## GENERAL FUNDS

19,445,931

## OTHER FUNDS

3,588,957

## TOTAL

33,289,616

7 Revised Revenue Estimates; 1991. The general fund estimates of unrestricted revenue for fiscal year 1991 as inserted by 1989, 365:25 as amended by 1990, 1:19 are repealed and reenacted to read as follows:

GENERAL FUND	1991
Beer	\$13,000,000
Board and care	21,000,000
Business profits tax	124,000,000
Estate and legacy tax	25,200,000
Insurance	41,500,000
Interest and dividend tax	46,000,000
Liquor	57,500,000
Meals and rooms tax	90,200,000
Parks income	7,500,000
Dog racing	6,600,000
Horse racing	4,500,000
Real estate transfer tax	38,000,000
Communications tax	22,800,000
Cigarette tax	40,000,000
Utilities	8,800,000
Other	33,000,000
Courts	23,000,000
Savings bank tax	14,200,000
Total	616,800,000

8 Two Percent Appropriations Reduction; Legislative and Judicial Branches. Appropriations made to the judicial branch and the legislative branch from the general fund shall be reduced by 2 percent for the fiscal year ending June 30, 1991.

#### 9 Employee Furlough Program.

I. Notwithstanding any other provision of law, rule, or regulation to the contrary, during the biennium ending June 30, 1991, any employee occupying a permanent full-time or temporary classified, unclassified, or nonclassified position, regardless of the branch of government or source of funding, may take unpaid days of leave. A day or days off without pay shall result in a reduction in pay equal to the pay for the day or days taken. Such leave shall be taken in blocks equal to the number of hours in the employee's normal work day. Participating employees shall accumulate bonus leave at the rate of one day of leave for each 2 days taken off without pay. Any bonus leave acquired relative to this provision shall not be used before July 1, 1992, unless the employee leaves state service.

II. The period when such leave is taken shall be decided in consultation with such person's supervisor, provided, however, that the leave shall not unreasonably be denied.

III. The savings from this action shall be lapsed forthwith to the salary adjustment fund and the employee benefit adjustment account as appropriate, to revert to the appropriate fund, and, except for federal or other non-state funds, shall not be available for transfer for any purpose.

IV. No employee shall as a result of the provisions of this section forfeit any benefits relative to annual or sick leave, additional annual leave, or longevity pay. Bonus leave shall be accumulated as provided in paragraph I. An unpaid day of leave taken pursuant to this section shall not in any event be considered a break in service for purposes of determining anniversary dates or for purposes of the continuous service requirements for health and dental insurance coverage.

10 Rehiring of Laid Off State Employees. Amend 1990, 261:1, I to read as follows:

I. For purposes of this act, "laid off" means any person laid off between January 1, 1990, and [December 1, 1990] **June 30, 1991**, as a result of 1990, 1:16 or any other state law.

11 Additional Energy Costs. Appropriated in section 6 is the sum of \$1,289,965 for additional energy costs which is detailed in a series of agency transfers in that section.

12 Appropriation; Department of Labor. The sum of \$37,479 is hereby appropriated to the department of labor for the fiscal year ending June 30, 1991, for the purpose of reimbursing the federal government as a result of costs disallowed by an audit conducted by the Office of the Inspector General. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

13 Unclaimed Ticket Money. Amend RSA 284:31 to read as follows:

284:31 Unclaimed Ticket Money. On or before January 31 of each year every person, association or corporation conducting a race or race meet hereunder shall pay to the state treasurer all moneys collected during the previous year of pari-mutuel pool tickets which have not been redeemed. The books or records of said person, association or corporation, which clearly show the tickets entitled to reimbursement in any given race, shall be forwarded to the commission. Such moneys shall [be retained by] **become a part of the general funds of the state**. The state treasurer [and he] shall pay the amount due on any ticket to the holder thereof **from funds not otherwise appropriated** upon an order from the commission. [After the expira-



tion of one year, any such moneys still in the custody of the state treasurer shall become a part of the general funds of the state.]

14 Appropriation Increased; Postsecondary Education Commission. Amend 1990, 162:8 to read as follows:

162:8 Appropriation; Postsecondary Education Commission. In addition to any other sums appropriated, the sum of [\$27,868] **\$30,556** is appropriated for the fiscal year ending June 30, 1991, to the postsecondary education commission for the purpose of making up a shortfall in the funding for the New England Board of Higher Education annual membership assessment. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

15 Statement of Intent. It is the intent of this act that those capital appropriations amended by sections 16-19 of this act which were originally funded by the capital reserve fund, established by 1987, 399:10, II as amended by 1988, 254:83 and 1989, 77:23, in lieu of issuing bonds are to now be funded by the issuance of bonds as authorized by sections 16-19 of this act. The amounts originally utilized from the capital reserve fund for the capital appropriations amended by sections 16-19 of this act shall be transferred from the capital reserve fund to the general fund undesignated surplus account. It is intended that \$4,123,000 of the amounts originally utilized from the capital reserve fund now be bonded and that same amount now be transferred to the general fund undesignated surplus account referred to above.

16 Appropriation Bonded; Joint Committee on Legislative Facilities. Amend 1988, 224:23 to read as follows:

224:23 Appropriations; Joint Committee on Legislative Facilities.

I. The sum of \$153,000 is appropriated to the joint committee on legislative facilities for the fiscal year ending June 30, 1989, for the purpose of improving the fire protection system and electrical system in the state house. Of this sum, \$100,000 shall be used for construction costs and \$53,000 shall be used for architectural and engineering fees. This appropriation shall be nonlapsing. [This appropriation shall be a charge against the capital reserve fund, which is the amount in excess referred to in 1987, 399:10, II.]

**II. To provide funds for the appropriation made in paragraph I of this section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$153,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general fund of the state.**

[II.] **III.** The sum of \$61,500 is appropriated to the joint committee on legislative facilities for the fiscal year ending June 30, 1989, for the purpose of conducting a feasibility study of a parking garage facility. This appropriation shall be a charge against the joint legislative account.

17 Appropriation Bonded; Fire Standards and Training Council. Amend 1988, 224:26 to read as follows:

224:26 Appropriation; Fire Standards and Training Commission.

**I.** The sum of \$125,000 is hereby appropriated to the fire standards and training commission for the purpose of conducting an architectural and engineering study for a new facility. This appropriation shall not be expended, encumbered, or obligated in any way without the prior approval of a plan, outlining the site and future uses for the facility, by the capital budget oversight committee. This appropriation is in addition to any other appropriation to the fire standards and training commission for the biennium ending June 30, 1989, and shall be nonlapsing. [This appropriation shall be a charge against the capital reserve fund, which is the amount in excess referred to in 1987, 399:10, II.]

**II.** To provide funds for the appropriation made in paragraph I of this section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$125,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general fund of the state.

18 Appropriation Bonded; Water Pollution Control Revolving Loan Fund. Amend 1987, 341:2 as amended by 1989, 77:11 to read as follows:

341:2 Appropriation.

**I.** The sum of \$1,885,000 is hereby appropriated for the biennium ending June 30, 1989, for the state water pollution control revolving loan fund described in RSA 149-B:12 as inserted by section 1 of this act for the purpose of providing a 20 percent state matching grant for the federal funds deposited in said fund during fiscal year 1989. This appropriation shall be nonlapsing and in addition to any other sums appropriated to the state water pollution control revolving loan fund. [This appropriation shall be a charge against the capital reserve fund, which is the amount in excess referred to in 1987, 399:10, II.]

**II.** To provide funds for the appropriation made in paragraph I of this section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,885,000 and for said purpose may issue bonds and notes in the



**name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general fund of the state.**

19 Appropriation Bonded; Division of Mental Health and Developmental Services. Amend 1988, 240:2, II to read as follows:

II. The sum of \$1,000,000 is hereby appropriated to the division of mental health and developmental services, department of health and human services, for the purposes of RSA 126-A:43-c. [This appropriation shall be a charge against the capital reserve account referred to in 1987, 399:10, II.]

**III. To provide funds for the appropriation made in paragraph II of this section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general fund of the state.**

20 Funds Nonlapsing. The appropriation of \$250,000 made in section 6 of the act to PAU 03, 03, 02, 03 class 90, shall be nonlapsing.

21 New Sections; New Hampshire Economic Development Fund Established; Review Committee Established. Amend RSA 12-A by inserting after section 2-d the following new sections:

12-A:2-e New Hampshire Economic Development Fund.

I. There is hereby established the New Hampshire economic development fund which shall be administered by the commissioner of the department of resources and economic development. Said fund shall be for the purpose of providing funds for grants, loans and other economic development initiatives which shall be generally considered to be beneficial to the state's overall economy as provided for in paragraph II.

II. Said fund shall be distributed or expended by the commissioner with the advice and prior approval of the committee established in RSA 12-A:2-f and the approval of the governor and council for any of the following purposes:

(a) Business financing and expansion initiatives.

(b) Job retention and creation.

(c) International trade.

(d) Research and development activities.

(e) Other projects or programs recognized as being beneficial to business activity in New Hampshire.

III. To maximize the economic impact of expenditures from this fund, and to leverage additional funding from other sources, the commissioner may contract with such organizations as, but not limited to, the following:

(a) New Hampshire Business Development Corporation.



- (b) Small Business Investment Corporation.
- (c) Industrial Research Center.
- (d) Small Business Development Center.

IV. All monies returned to the department as a result of contracts between the commissioner and any other party as authorized shall be redeposited into the New Hampshire economic development fund. In addition, the department may accept gifts, grants, donations or other moneys for the purposes of this section. Said moneys shall be deposited into the New Hampshire economic development fund.

21-A:2-f Review Committee. There is established a committee to review the distribution and expenditure of funds in accordance with RSA 12-A:2-e. The committee shall be composed of the following:

- I. The speaker of the house of representatives.
- II. Two members of the appropriations committee, appointed by the speaker of the house.
- III. The president of the senate.
- IV. Two members of the senate finance committee, appointed by the senate president.
- V. The commissioner of the department of resources and economic development, or designee.

22 Appropriation. The sum of \$5,000,000 is hereby appropriated to the department of resources and economic development for the purpose of carrying out the provisions of section 21 of this act. These funds shall be in addition to any other funds appropriated to the department and shall be nonlapsing.

23 Bonding Authorization. To provide funds for the appropriation made in section 22 of this act, the state treasurer is hereby authorized to borrow upon the credit of this state not exceeding the sum of \$5,000,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A, provided that such bonds shall be 15-year bonds.

24 Payments. The payment of principal and interest on bonds and notes issued pursuant to section 23 of this act shall be made when due from the general fund.

25 Effective Date.

- I. Section 13 of this act shall take effect January 31, 1992.
- II. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill makes appropriations and supplemental appropriations for fiscal year 1991. The bill also transfers or lapses certain special funds and accounts into the general fund. It requires interest earned from February through June, 1991, on 3 environmental funds to be credited to the general fund.

The bill makes appropriations reductions for fiscal year 1991 for the legislative and judicial branches.

The bill authorizes a voluntary furlough program for state employees and legislative and judicial branch employees.

This bill removes the requirement that the treasurer retain unclaimed ticket money on pari-mutuel pools for one year before transferring such moneys to the general fund. The bill requires the treasurer to pay claims on order of the pari-mutuel commission from funds not otherwise appropriated.

The bill increases an appropriation to the postsecondary education commission. It also bonds certain appropriations which are currently a charge against the capital reserve fund.

The bill also establishes a New Hampshire economic development fund and makes an appropriation for its purposes.

A Roll Call was requested by Senator Humphrey.

Seconded by Senator Heath.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Dupont, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, Colantuono, McLane, Podles, J. King, Russman, Shaheen, Delahunty, Hollingworth, Cohen.

The following Senators voted No: Heath, St. Jean.

Yeas: 20

Nays: 2

Paired votes: Senator Nelson and Senator Humphrey.

Amendment Adopted.

Ordered To Third Reading.

Senator Humphrey in opposition to HB 50.

**SB 102-FN**, authorizing the municipal bond bank to establish and administer combined investment funds. Banks committee. Ought To Pass With Amendment. Senator Fraser for the committee.

**SENATOR FRASER:** There were two major financial issues that the cities and towns asked the general court administration to address. Number one was the protection of municipal bank deposits in excess of FDIC limit of \$100,000. The Senate passed SB 83 which sets out a collateralization program requiring all banks who accept municipal deposits offer a program for protection in the event that the community should so desire. The second issue that the cities and towns requested was an ability to have more control over their own destiny so far as investment in anything beyond banks and governmental securities. As you know, today that is all these communities



can invest in. Cities and towns have been saying for some time to Mr. and Mrs. Legislator that we are capable of managing our own financial affairs and we want the ability to seek higher yield on some of our money. Give us some enabling legislation to so accomplish this. We have done that with the amendment to SB 102. I want to take one moment to explain the basis of SB 102. First of all, 102 sets up a program for a public investment pool with the banking commissioner as its administrator. It establishes an advisory committee heavily weighted with representatives of the local government along with the state treasurer and the commissioner of revenue administration. There are only two members of the banking community on this advisory council which consists of nine members. There was another section of the bill requiring rule making with extensive requirements for disclosure provisions. The advisory committee will assist and advise the commissioner of banking on formulating these policies, determining eligible investment vehicles and the like. There is a phase in period in the bill, whereby in the first year after enactment, the communities are limited to ten percent of available funds that they can invest in the high yield investments. The second year is twenty percent and the third year is thirty percent. The advisory committee is required to report at the end of the three year period on the experiences of this bill with any recommendations for future changes. This is an oversimplification, but this is what this bill purports to do. To say it simply, it gives the cities and towns the opportunity to take some of their money and invest it in a public investment pool under the aegis of the banking commissioner to seek higher yield for the money that they have available for investment. I would urge the Senate to please adopt the committee report.

SENATOR CURRIER: Senator, I realize that the floor amendment is coming up. The question I have is on the wording in paragraph 2 of the amendment where it says advisory committee twice.

SENATOR FRASER: I am sorry. I do have an amendment. There was a typo in the drafting of the bill that Senator Currier was kind enough to bring to my attention.

#### **Amendment to SB 102-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

authorizing the bank commissioner to establish and  
administer a public deposit investment pool.

Amend the bill by replacing all after the enacting clause with the following:



1 New Subdivision; Bank Commissioner to Establish Public Deposit Investment Pool. Amend RSA 383 by inserting after section 21 the following new subdivision:

Public Deposit Investment Pool

383:22 Public Deposit Investment Pool.

I. The commissioner shall, with the assistance of the advisory committee created under RSA 383:24, establish and operate, beginning on January 1, 1992, a public deposit investment pool, for the purpose of investing funds of the state, and funds under the custody of governmental units, pooled risk management programs established pursuant to RSA 5-B, agencies, authorities, commissions, boards, political subdivisions and all other public units within or instrumentalities of the state.

II. The public deposit investment pool shall be operated under contract with a private investment advisor, approved by the bank commissioner and advisory committee. The commissioner and advisory committee shall choose an investment advisory committee by requesting proposals from advisors and reviewing such proposals based on criteria adopted by rule under RSA 383:23.

III. The commissioner shall make available to prospective depositors detailed information on the public deposit investment pool, similar to that information generally contained in a securities prospectus. The commissioner shall also ensure that periodic statements of accounts and reports on holdings are provided to pool participants relative to their proportionate share of the pool.

IV. The commissioner shall cause an independent audit of the pool to be conducted on an annual basis. The auditor shall be selected by the advisory committee.

383:23 Rulemaking. Prior to January 1, 1992, the commissioner shall, with the approval of the advisory committee, adopt rules, pursuant to RSA 541-A, relative to:

I. Formulation of a disclosure policy and materials to be included in a prospectus and in periodic reports to participants, including:

- (a) A written statement of policy and pool objectives;
- (b) Investment objectives designed to meet the pool objectives;
- (c) A description of eligible investment instruments;
- (d) The credit standard of investment;
- (e) Allowable maturity range of investments;
- (f) The limits of portfolio concentration permitted for each type of security;
- (g) Safekeeping practices;
- (h) Definition of pool participant eligibility;

(i) Disclosure of size of accounts, size of transaction and administrative costs; and

(j) Instructions for establishing and utilizing accounts.

II. Investment and administrative policies, practices and restrictions, including the frequency and method used for calculating valuation, yields and earnings.

III. Requests for proposals from investment managers and criteria for reviewing such proposals.

383:24 Advisory Committee.

I. There is established an advisory committee on the public deposit investment pool, consisting of the following members:

(a) The state treasurer.

(b) The commissioner of the department of revenue administration or designee.

(c) Two members appointed by the New Hampshire Government Finance Officers Association.

(d) Two members appointed by the New Hampshire Bankers Association.

(e) One county finance officer appointed by the New Hampshire Association of Counties.

(f) One city finance officer, appointed by the New Hampshire Municipal Association.

(g) One school district finance officer, appointed by the New Hampshire School Boards Association.

II. The advisory committee shall assist and advise the commissioner on the establishment and operation of the investment pool, including:

(a) Formulating the disclosure policy.

(b) Determinating eligible investment vehicles.

(c) Establishing performance standards.

(d) Monitoring the outflow of funds from financial institutions.

(e) Determining compliance with written investment policies.

(f) Conducting periodic reviews of the public deposit investment pool.

2 Phase-In Period.

I. Each participant in the public deposit investment pool shall be subject to the following investment caps:

(a) No more than 10 percent of such participant's available funds shall be invested in the pool during 1992.

(b) No more than 20 percent of such participant's available funds shall be invested in the pool during 1993.

(c) No more than 30 percent of such participant's available funds shall be invested in the pool during 1994.



II. The advisory committee shall prepare a report evaluating the public deposit investment pool program, including recommendations for legislation, and submit it to the speaker of the house, the senate president, and the governor, on or before January 1, 1995.

3 State Treasurer; Investment of Funds. Amend RSA 6:8 to read as follows:

6:8 Investment of Funds. All funds over which the state has exclusive control, aside from such sums of money as the treasurer may deem necessary to hold or deposit for meeting current expenses, shall be invested by the treasurer, with the approval of the governor and council, in obligations of the United States government, in obligations which are legal investments for savings banks and trust companies, in all types of savings accounts, **in participation units in the public deposit investment pool established pursuant to RSA 383:222**, in certificates of deposit of state or federally chartered banking institutions within New Hampshire, or in certificates of deposit of national banks within the commonwealth of Massachusetts.

4 Duties of County Treasurer. Amend RSA 29:1 to read as follows:

29:1 Duties. The county treasurer shall have custody of all moneys belonging to the county, and shall pay out the same only upon orders of the commissioners. He shall deposit the same **in participation units in the public deposit investment pool established pursuant to RSA 383:22** or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to the state treasurer as collateral security for such deposits United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. Said out-of-state banks shall make a monthly report of such deposits to the state treasurer. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The county treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the county treasury, and of all notes given by the county, with the particulars thereof. At the close of each fiscal year, he shall make a report to the county, giving a particular account of all his financial transactions during the year. He shall furnish to the commissioners statements from his books, and submit his books and vouchers to them and to the county auditors for examination, whenever so requested. Whenever the county treasurer has in his custody an excess of funds which are not immediately needed for the purpose of expenditure, he shall, with the approval of the commissioners, invest the same in obligations of the United States government, **in participation units in the public deposit investment pool established pursuant to RSA 383:22**, in savings bank deposits of



banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the state of Massachusetts.

5 County Treasurer; Excess Funds. Amend RSA 29:3 to read as follows:

29:3 Excess Funds. Whenever the county treasurer has in his custody an excess of funds which are not immediately needed for the purpose of expenditure he may, with the approval of the county commissioners and county executive committee, invest the same in short-term obligations of the United States **or in participation units in the public deposit investment pool established pursuant to RSA 383:22**, upon such terms as shall be approved by the county commissioners.

6 Investment; Capital Reserve Fund for Cities. Amend RSA 34:5 to read as follows:

34:5 Investment. The moneys in such fund shall be kept in a separate account and not intermingled with the other funds of the city. Said capital reserve fund shall be invested only by deposit in some savings bank or in the savings department of a national bank or trust company, or in the shares of a cooperative bank, building and loan association, or federal savings and loan association, in this state or in bonds, notes or other obligations of the United States government, [or] in bonds or notes of this state, **or in participation units in the public deposit investment pool established pursuant to RSA 383:22**, and when so invested in good faith the trustees hereinafter named shall not be liable for the loss thereof. Any interest earned or capital gains realized on the moneys so invested shall accrue to and become a part of the fund. Deposits in banks shall be made in the name of the city, and it shall appear upon the book thereof that the same is a capital reserve fund.

7 Investment; Capital Reserve Fund; Counties; Towns; Districts. Amend RSA 35:9 to read as follows:

35:9 Investment. The moneys in each such fund shall be kept in a separate account and not intermingled with other funds of said municipality. Said capital reserve fund shall be invested only by deposit in some savings bank or in the savings department of a national bank or trust company, **or in the shares of a cooperative bank, building and loan association, or federal savings and loan association, in this state, or in bonds, notes or other obligations of the United States government, or in bonds or notes of this state, or in participation units in the public deposit investment pool established pursuant to RSA 383:22**[, and]. When so invested the trustees hereinafter named shall not be liable for the loss thereof. Any interest earned or capital gains realized on the moneys so invested shall accrue to and

become a part of the fund. Deposits in banks shall be made in the name of the town, district or county which holds the same as a reserve, and it shall appear upon the books thereof that the same is a capital reserve fund.

8 Town Treasurer; Duties. Amend RSA 41:29 to read as follows:

41:29 Duties. The town treasurer shall have custody of all moneys belonging to the town, and shall pay out the same only upon orders of the selectmen, or, in the case of a conservation fund established pursuant to RSA 36-A:5, upon the order of the conservation commission. He shall deposit all such moneys **in participation units in the public deposit investment pool established pursuant to RSA 383:22** or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to the state treasurer as collateral security for such deposits United States government obligations, United States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. Said out-of-state banks shall make a monthly report of such deposits to the state treasurer. The amount of collected funds on deposit in any one bank shall not for more than 20 days exceed the sum of its paid-up capital and surplus. The town treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from town treasury, and of all notes given by the town, with the particulars thereof. At the close of each fiscal year, he shall make a report to the town, giving a particular account of all his financial transactions during the year. He shall furnish to the selectmen statements from his books, and submit his books and vouchers to them and to the town auditors for examination, whenever so requested. Whenever the town treasurer has in his custody an excess of funds which are not immediately needed for the purpose of expenditure, he shall, with the approval of the selectmen, invest the same in obligations of the United States government, **in the public deposit investment pool established pursuant to RSA 383:22**, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the state of Massachusetts.

9 City Treasurer; Duties. Amend RSA 48:16 to read as follows:

48:16 City Treasurer; Duties. The city treasurer shall have custody of all moneys belonging to the city. He shall deposit the same **in participation units in the public deposit investment pool established pursuant to RSA 383:22**, or in solvent banks in the state, except that funds may be deposited in banks outside the state if such banks pledge and deliver to the state treasurer as collateral security for such deposits United States government obligations, United



States government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. Said out-of-state banks shall make a monthly report of such deposits to the state treasurer. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus, except that a city with a population in excess of 50,000 is authorized to deposit funds in a solvent bank in excess of the paid-up capital surplus of said bank. The city treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the city treasury, and of all notes given by the city, with the particulars thereof. At the close of each fiscal year, he shall make a report to the city giving a particular account of all his financial transactions during the year. He shall furnish to the mayor and council statements from his books, and submit his books and vouchers to them and to the city auditors for examination, whenever so requested. Whenever the city treasurer has in his custody an excess of funds which are not immediately needed for the purpose of expenditure, he shall, with the approval of the mayor and a majority of the city council, invest the same in obligations of the United States government, **in participation units in the public deposit investment pool established pursuant to RSA 383:22**, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the state of Massachusetts.

10 Retirement System; Management of Funds. Amend RSA 100-A:15, I to read as follows:

I. The members of the board of trustees shall be the trustees of the several funds created hereby and shall have full power to invest and reinvest such funds. **The members of the board of trustees shall also have the power to invest and reinvest such funds in participation units in the public deposit investment pool established pursuant to RSA 383:22.** Said trustees shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created hereby have been invested, as well as the proceeds of such investments. All of the assets and proceeds, and income therefrom, of the New Hampshire retirement system, and all contributions and payments made thereto, shall be held, invested or disbursed in trust solely in the interest of the members and beneficiaries of the system for the exclusive purpose of providing those benefits and defraying those reasonable administrative expenses provided for under this chapter. In the management, investment and reinvestment of system assets so held in trust hereunder, the system's board of trustees shall exer-



cise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence, acting in a like capacity and familiar with such matters, would use in the conduct of a pension plan of like character and with like aims as the system, and by diversifying investments of the system so as to minimize the risk of large losses to the trust fund.

11 Retirement System; Management of Funds; July 1, 1995, Version. Amend RSA 100-A:15, I to read as follows:

I. The members of the board of trustees shall be the trustees of the several funds created hereby and shall have full power to invest, and reinvest such funds, subject to all the terms, conditions, limitations, and restrictions imposed by the laws of the state of New Hampshire upon domestic life insurance companies in the making and disposing of their investments. Said trustees may invest and reinvest such funds in shares of cooperative banks and building and loan associations located in this state or in international investments, provided that international investments shall not exceed 15 percent of the several funds that are invested and reinvested, and may make deposits in savings banks or trust companies or in national banks and subject to like terms, conditions, limitations, and restrictions. **The members of the board of trustees shall also have the power to invest and reinvest such funds in participation units in the public deposit investment pool established pursuant to RSA 383:22.** Said trustees shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds created hereby have been invested, as well as the proceeds of such investments, provided, however, that the trustees or their designees shall be exempt from the provisions of RSA 411-A:6, III, in making investments. The board of trustees shall, to the greatest extent possible, use the funds of the retirement system to benefit and expand the economic climate within the state of New Hampshire. The use of such funds by the board shall be consistent with sound investment practices.

12 School Districts; Treasurer's Duties. Amend RSA 197:23-a to read as follows:

197:23-a Treasurer's Duties. The treasurer shall have custody of all moneys belonging to the district and shall pay out the same only upon orders of the school board or upon orders of the 2 or more members of the school board empowered by the school board as a whole to authorize payments. He shall deposit the same in **participation units in the public deposit investment pool established pursuant to RSA 383:22, or in solvent banks in the state**, except that funds may be deposited in banks outside the state if such banks pledge and deliver to the state treasurer as collateral security for such deposits United States government obligations, United States

government agency obligations, or obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case. Said out-of-state banks shall make a monthly report of such deposits to the state treasurer. The amount of collected funds on deposit in any one bank shall not at any time exceed the sum of its paid-up capital and surplus. The treasurer shall keep in suitable books provided for the purpose a fair and correct account of all sums received into and paid from the district treasury, and of all notes given by the district, with the particulars thereof. At the close of each fiscal year, he shall make a report to the district, giving a particular account of all his financial transactions during the year. He shall furnish to the school board statements from his books, and submit his books and vouchers to them and to the auditors for examination, whenever so requested. Whenever the treasurer has in his custody an excess of funds which are not immediately needed for the purpose of expenditure, he shall, with the approval of the school board, invest the same in obligations of the United States government, **in participation units in the public deposit investment pool established pursuant to RSA 383:22**, in savings bank deposits of banks incorporated under the laws of the state of New Hampshire or in certificates of deposits of banks incorporated under the laws of the state of New Hampshire or in national banks located within this state or the state of Massachusetts.

13 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill authorizes the bank commissioner to establish and administer a public deposit investment pool to be operated under contract with a private investment advisor for the purpose of investing funds of the state, and funds under the custody of governmental units, agencies, authorities, commissions, boards, political subdivisions, and all other public units within or instrumentalities of the state.

The bill grants the bank commissioner rulemaking authority relative to establishing and administering this investment pool. The bill establishes an advisory committee to assist the bank commissioner in creating the pool and to oversee its operation.

Amendment adopted.

SENATOR FRASER: Under roman numeral II on page 9 of the calendar, it says the commissioner and advisory committee shall chose an investment advisory committee. That is a typo. The amendment says the commissioner and advisory committee shall chose an investment advisor. That is what the amendment does. And I urge the adoption of the amendment.



Senator Fraser offered a floor amendment.

**Floor Amendment to SB 102-FN**

Amend RSA 383:22, II as inserted by section 1 of the bill by replacing it with the following:

II. The public deposit investment pool shall be operated under contract with a private investment advisor, approved by the bank commissioner and advisory committee. The commissioner and advisory committee shall choose an investment advisor by requesting proposals from advisors and reviewing such proposals based on criteria adopted by rule under RSA 383:23.

Floor amendment adopted.

Ordered to third reading.

**SB 65-FN-A**, relative to Lake Massasecum and the Warner River in the town of Bradford and making an appropriation therefor. Environment committee. Interim Study. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The committee on Environment has voted this bill to be reported out to interim study. It has come to our attention that the parties involved are working on a private/public partnership and they believe they can work this out by themselves and we think it is appropriate for the Legislature to allow them the time to do that.

**SB 65-FN-A**, is sent to Interim Study.

**SB 126-FN**, relative to groundwater classification. Environment committee. Ought To Pass With Amendment. Senator Russman for the committee.

**SENATOR RUSSMAN:** On the groundwater bill, this was part of a state-by-state legislation relative to wellhead protection and this was the first step for New Hampshire to take in terms of trying to classify the various types of groundwater that we have. Also giving the local municipalities the opportunity to come to the state and say that they have already inventoried and mapped these areas in an effort to protect them. We spent a great deal of time working with the BIA and with other people in an effort to get their support on the bill. As far as I know, it is widely supported. It is a major piece of groundwater legislation and I would urge you to support the committee recommendation.

**Amendment to SB 126-FN**

Amend RSA 485-C:2, I as inserted by section 1 of the bill by replacing it with the following:



I. "Ambient groundwater quality standards" means maximum concentration levels for regulated contaminants in groundwater which result from human operations or activities, adopted pursuant to RSA 485-C:6.

Amend RSA 485-C:2, XI as inserted by section 1 of the bill by replacing it with the following:

XI. "Local entity" means a town or city, acting through a planning board, conservation commission, water department, health officer, or other duly constituted municipal unit; a village district established under RSA 52 or its predecessor statutes; an entity established by intergovernmental agreement under RSA 53-A; or a supplier of water for wellhead protection areas tributary to wells owned by the supplier.

Amend RSA 485-C:3 as inserted by section 1 of the bill by deleting paragraph V.

Amend RSA 485-C:4 as inserted by section 1 of the bill by replacing it with the following:

485-C:4 Rulemaking. The division shall adopt rules, pursuant to RSA 541-A, relative to:

I. Criteria and procedures for delineating classes of groundwater.

II. Criteria and procedures for reclassifying groundwater under RSA 485-C:9.

III. Standards for ambient groundwater quality as provided under RSA 485-C:6.

IV. Procedures for conducting and maintaining inventories of potential contamination sources and requirements for managing potential contamination sources under RSA 485-C:8.

V. Procedures and standards for groundwater release detection permits as provided under RSA 485-C:13.

VI. Fees for groundwater release detection permits required under RSA 485-C:13.

VII. Best management practices as provided under RSA 485-C:11.

Amend RSA 485-C:5, I(c) as inserted by section 1 of the bill by replacing it with the following:

(c) Class GA2 shall be assigned to groundwater within aquifers identified as highly productive for potential use as a public water supply by the U.S. Geological Survey regional groundwater studies, or other regional studies. Zones of stratified drift with a saturated thickness greater than 20 feet, and a transmissivity greater than 1,000 feet squared per day shall be designated as class GA2. Zones of bedrock with average well yields greater than 50 gallons per minute shall also be designated as class GA2.

Amend RSA 485-C:6 as inserted by section 1 of the bill by replacing it with the following:

485-C:6 Ambient Groundwater Quality Standards. The division shall adopt ambient groundwater quality standards for regulated contaminants which adversely affect human health or the environment. Ambient groundwater standards shall apply to all regulated contaminants which result from human operations or activities, but do not apply to naturally occurring contaminants. Where federal maximum contaminant level or health advisories have been promulgated, ambient groundwater quality standards shall be equivalent to such standards. Where such standards are based upon cancer risks, the ambient groundwater quality standards shall be equivalent to that exposure which causes a risk of one cancer in ten to the sixth exposed population. Where no federal maximum contaminant level or health advisory has been issued, the division may adopt ambient groundwater quality standards where sufficient information is known to perform a reasonable and rational basis for setting such standard to provide reasonable and adequate protection for human health and safety.

Amend RSA 485-C:7, II(p)-(s) as inserted by section 1 of the bill by replacing them with the following:

(p) Excavation and earthmoving equipment fueling and maintenance.

(q) Concrete, asphalt and tar manufacture.

(r) Cemeteries.

(s) Hazardous waste facilities regulated under the resource conservation and recovery act, as implemented by RSA 147-A.

Amend RSA 485-C:9, II as inserted by section 1 of the bill by replacing it with the following:

II. The commissioner shall reclassify groundwater to higher classes upon recommendation of the director, when it is determined that the proposed reclassification meets all the requirements of this chapter and rules adopted under this chapter. Prior to any such reclassification the commissioner shall:

(a) Notify the town or city clerk of all affected municipalities.

(b) Hold a public hearing.

(c) Where the proposed reclassification is to class GAA, provide written notice to landholders of record within the contributing area prior to the public hearing.

Amend RSA 485-C:9, III(a), as inserted by section 1 of the bill by replacing it with the following:

(a) A local entity may request reclassification of an area to class GAA by submitting a written request to the division which includes a wellhead protection area delineation, a potential contamination source inventory, and a potential contamination source man-



agement plan which demonstrates the ability and commitment of the local entity to implement the program.

Amend RSA 485-C:9, V as inserted by section 1 of the bill by replacing it with the following:

V. Procedures for Reclassification to class GA2. When the division receives a report or study which identifies areas of bedrock or stratified drift aquifers which are highly productive for public water supply, the division shall review the report or study, and shall recommend reclassification to class GA2 to the commissioner for all areas which meet the criteria for this class.

Amend RSA 485-C:10-485-C:17 as inserted by section 1 of the bill by replacing them with the following:

485-C:10 Degraded Groundwater.

I. Groundwater which has been degraded below ambient groundwater quality standards by past operations, discharges, or other human activities shall not be excluded from the designated class.

II. Groundwater which does not meet ambient groundwater quality standards due entirely to natural causes shall not be excluded from the designated class.

485-C:11 Best Management Practices. The division shall develop best management practices for the activities identified in RSA 485-C:7 as potential contamination sources. Best management practices shall strike a reasonable balance between environmental, energy, and economic impacts. These best management practices shall be followed by any person or activity regulated under this chapter. In developing best management practices for an activity or type of activity over which another state agency has regulatory jurisdiction, the division shall consult with that agency, and may, through a memorandum of agreement delegate to that agency the administration of best management practices. Notwithstanding the provisions of this section, the department of agriculture, in consultation with the division, shall develop best management practices for agricultural operations.

485-C:12 Prohibited Uses. Within any contributing area classified as GAA, the following new uses are prohibited:

I. The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A.

II. The siting or operation of a solid waste landfill.

III. The outdoor storage of road salt or other deicing chemicals in bulk.

IV. The siting or operation of a junk or salvage yard.

V. The siting or operation of a snow dump.

VI. The siting or operation of a wastewater or septage lagoon.

485-C:13 Groundwater Release Detection Permit.



I. No person shall engage in any of the following activities in the contributing area of any class without first obtaining a groundwater release detection permit from the division:

(a) The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A.

(b) The siting or operation of a lined solid waste landfill.

(c) The siting or operation of a lined wastewater lagoon.

(d) The siting or operation of a facility for processing soils contaminated with petroleum products.

II. No person shall site or operate a solid waste resource recovery facility in a class GAA contributing area without first obtaining a groundwater release detection permit.

III. Notwithstanding the provisions of paragraph I, any person engaging in an existing activity in a class GAA contributing area which is listed in RSA 485-C:13 as a prohibited new use shall obtain a groundwater release detection permit from the division, unless a groundwater discharge permit is required under RSA 485-A:13.

IV. The groundwater release detection permit:

(a) Shall require compliance with all applicable state and local laws and regulations;

(b) Shall include periodic monitoring of on site groundwater quality; and

(c) May contain such other conditions as are reasonable and consistent with the purpose of this chapter.

V. Applications for groundwater release detection permits shall be on forms and shall contain such information as the division shall require by rule.

VI. Application for a groundwater release detection permit for an existing facility or activity shall be made within 6 months of the date of notification of reclassification to GAA, or when a permit is required in any class, within 6 months of the effective date of this act. No person shall be deemed in violation of this chapter if such person shall have made application for a groundwater release detection permit for an existing facility or activity which is made within the required period, and the division has failed to grant or deny such permit.

485-C:14 Notice to Municipality. Upon the submission of a permit application to the department for an activity in a contributing area classified as GA1 or GAA, which is a potential contamination source under RSA 485-C:7, the state shall notify the board of selectmen, board of mayor and aldermen or other executive authority as well as the local entity, if known, of the filing of the application and shall suspend action on the application for 30 days to allow time for receipt of recommendations from the local entity. For any application required by law to be acted upon within a certain prescribed time,

the time shall be extended automatically by 30 days to allow for comment. The division shall proceed to act upon the application at the end of 30 days, even if no comments have been received. If the local entity submits recommendations to the department on the application, the department shall make written findings explaining any deviation from such recommendations. This section shall not apply to applications to construct domestic septic systems, provided that the system has an aggregate capacity of less than 20,000 gallons per day on one lot.

485-C:15 Investigation and Inspection. The division, any authorized representative, any authorized representative of any agency operating under a memorandum of agreement with the division, or any town or city health officer may enter any land or establishment for the purpose of administering the provisions of this chapter, and shall at reasonable times have access to any facility subject to this chapter.

485-C:16 Cease and Desist Orders.

I. The division may issue a written cease and desist order against any discharge or act in violation of this chapter or rule adopted under this chapter. Local health officers shall have concurrent power to issue cease and desist orders to enjoin any such discharge or act and such orders shall be effective immediately. Health officers shall, at the time of issuance of such orders, notify the commissioner, who may take whatever action is deemed necessary to ensure uniform state enforcement. Any person to whom an order is issued by a local health officer may, within 15 days, request review of the order by the division. If the division finds the order to have insufficient basis or to be no longer necessary, it shall state that fact in writing, and the order shall no longer be in effect.

II. A written cease and desist order issued by the division under paragraph I may be recorded by the division in the registry of deeds for the country in which the property is situated and, on recordation, such order shall run with the land; provided, however, that an appropriate description of the land involved, including the accurate name of the record owner, shall be incorporated in the cease and desist order. No fee shall be charged for recording such an administrative order; however, the fee for discharge of any such order shall be the same as for the discharge of a lien on real property.

485-C:17 Appeals. Actions of the division under RSA 485-C:17 may be appealed under RSA 21-O:14.

Amendment Adopted.

Referred To Finance (Rule #24).



**SB 165-FN**, relative to permit fees for excavating and dredging permits. Environment committee. Ought To Pass With Amendment. Senator Russman for the committee.

**SENATOR RUSSMAN:** On this bill there has been traditionally disagreement with DOT and the DES relative to the amounts of money that are going to be spent by either department on engineering costs, and there was some duplicated efforts. I was able to get both Leon Kenison, the Assistant Commissioner of DOT, and Delbert Downing, the Chairman of the New Hampshire Wetlands Board to sign on to the amendment saying that they both agree with the language so that both departments are now happy with the amended version of the bill. So this will put to rest once and for all, the confrontations that they have had over expenditures and hopefully, save some money at the same time. So I would urge you to adopt the committee report.

### **Amendment to SB 165-FN**

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Maximum Fee Established. Amend RSA 482-A:3 by inserting after paragraph IX the following new paragraph:

X. The maximum application fee for the New Hampshire department of transportation shall be \$10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the wetlands board. The wetlands board may enter into a memorandum of agreement with the New Hampshire department of transportation to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of their standard application fees.

### **AMENDED ANALYSIS**

This bill sets a maximum fee of \$10,000 for excavating and dredging permit applications for major impact projects. The \$10,000 limitation does not apply to major state public works projects. In addition, the bill permits the department of transportation to enter memorandum agreements with the wetlands board in order to meet the board's requirements.

The bill also establishes \$10,000 as the maximum application fee for technical or consulting services required to meet the needs of the wetlands board.

Amendment Adopted.

Ordered To Third Reading.



**SB 183-FN**, relative to the Lamprey Regional Solid Waste Cooperative. Environment committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: Barrington, Rollinsford, and Somersworth and that whole area along with others, belong to the Lamprey Solid Waste Cooperative. They operate an incinerator at the University of New Hampshire. This solid waste cooperative was formed way back in the late 70's. What SB 206 does is to allow the solid waste cooperative to become a solid waste district now, instead of waiting until 1993 when the cooperative agreement runs out. This is important, primarily for the purpose of allowing the solid waste district to create financing and bonding similar to what occurs in water and sewer districts. The incinerator, which is located by the way, at the University of New Hampshire, will continue, but there is a problem in Somersworth in that they must expand their landfill. Under the current cooperative status, this would be very difficult to obtain the kind of financing that would be allowed under 183. And so for that reason, we would urge the Senate to adopt 183 to allow this to happen so they don't have to wait until 1993.

SENATOR HEATH: Senator Fraser, how would they get financing under this legislation?

SENATOR FRASER: The bonding.

SENATOR HEATH: By? By issuing their own bonds?

SENATOR FRASER: Yes. I guess so. It is a bonding mechanism.

SENATOR RUSSMAN: It is a bonding mechanism on the local level.

SENATOR HEATH: How is that different from what they can do now?

SENATOR RUSSMAN: Right now they are a 53-A unit and they want to become a 53-B unit under that 149-M statute. This eliminates the need to have to go through all the town processes and town notices and virtually all of the towns agree with what they are trying to do. So it is a mechanism that allows them a little more flexibility under the 53B chapter. I don't know if that answers your question.

SENATOR HEATH: What does it allow, that wouldn't be allowed if this doesn't pass?

SENATOR RUSSMAN: I think it would affect their ability to bond and certainly it would affect their ability to move as quickly as they might normally move.

SENATOR HEATH: Because of?

SENATOR RUSSMAN: Because of the fact that it has something to do with the landfill procedures itself, as far as getting the permits and things of that nature. It would take a much longer time and then they would be able to get it into their budgetary process, so they could bond sooner than later. That was important to them and that is why they came to us rather than go through a town by town basis.

SENATOR HEATH: You say this avoids a permit process?

SENATOR RUSSMAN: No. They still have to get the permits. But it helps them with their bonding capabilities in terms of getting that money in a faster and more economical method. That was what was told to us.

SENATOR FRASER: And there was no opposition to the bill at the time of the public hearing.

#### **Amendment to SB 183-FN**

Amend the bill by replacing all after the enacting clause with the following:

##### **1 Purpose.**

I. Pursuant to RSA 53-A, in May 1978 the municipalities of Barrington, Durham, Epping, Greenland, Lee, Madbury, Newfields, Newington, Newmarket, Northwood, Rollinsford, and Stratham entered into an agreement to form the Lamprey regional solid waste cooperative. The city of Somersworth joined the cooperative in 1981. The agreement shall expire by its own terms on December 31, 1993. Upon the expiration of the agreement, the municipalities would be required under RSA 149-M to form a solid waste management district by entering into a written agreement which may be informal or established pursuant to RSA 53-A or RSA 53-B.

II. The municipalities of the cooperative declare that the present administration of the cooperative complies and shall continue to comply fully with the planning and organizational requirements of RSA 53-B. The general court, therefore, finds that the cooperative is exempt from the specific district establishment requirements of RSA 53-B.

2 Lamprey Regional Solid Waste Cooperative. The legislature finds and declares that the Lamprey regional solid waste cooperative shall be deemed to have complied with the planning and approval requirements of RSA 53-B:1 and RSA 53-B:3-5 of a regional refuse disposal district. Therefore, the cooperative has effectively functioned as a planning committee as approved by RSA 53-B:1 and has effectively been approved by the various municipalities in-

volved. If a majority of the members of the city of Somersworth city council, the towns of Newmarket and Durham town councils, and the selectmen of each of the other participating municipalities vote to form a regional refuse disposal district in accordance with the terms of the agreement, the Lamprey regional solid waste cooperative shall thereafter be known as the Lamprey regional refuse disposal district and shall be considered to have satisfied the requirements of RSA 53-B for the establishment of a regional refuse disposal district, with all the rights, authorizations, and responsibilities afforded any regional refuse disposal district formed pursuant to RSA 53-B.

3 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill recognizes that certain municipalities entered into an agreement pursuant to RSA 53-A to form the Lamprey regional solid waste cooperative, which agreement shall expire on December 31, 1993. The purpose of the bill is to sanction the continued operation of the cooperative as currently organized and administered without requiring the municipalities to meet the regional refuse disposal district planning requirements pursuant to RSA 53-B. Rather, the cooperative as presently organized shall be deemed to have met the planning and approval requirements of RSA 53-B.

Respective city and town councils and selectmen may vote to form a regional refuse disposal district pursuant to RSA 53-B which, if voted upon and approved, would establish a district deemed to be in compliance with the requirements of RSA 53-B.

Amendment Adopted.

Ordered To Third Reading.

**SB 186-FN**, relative to a hazardous waste day in Rockingham county. Environment committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The committee on Environment unanimously supports passage of 186-FN as amended, the amendment being on page 17. The amendment will allow for a study which will determine the best ways to deal with household hazardous waste in the state of New Hampshire. We urge your support.



**Amendment to SB 186-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT**

establishing a committee to study household hazardous waste.

Amend the bill by replacing all after the enacting clause with the following:

**1 Study Committee Established.**

I. There is hereby established a committee which shall study and consider the collection and disposal of household hazardous waste in the state.

II. The duties of the committee shall be to meet to review the current operation of the state's household hazardous waste program, including:

(a) An examination of issues and problems which have arisen relative to the current program.

(b) Sources of funding for household hazardous waste projects.

(c) Limitations on funding the current program or any possible expansion of services under the current program.

(d) The relatively high cost of collections.

(e) The lack of one or more permanent collection facilities for people who cannot otherwise attend an annual or semi-annual collection day.

(f) Utilizing less costly department of environmental services' personnel in lieu of highly-trained, expensive personnel to collect and dispose of hazardous waste.

(g) The possibility of assigning a state employee and a state motor vehicle to a designated route for the collection and disposal of household hazardous waste, including any additional hiring or funding necessary to accomplish this.

(h) Saturation of participating capacity levels which is resulting in environmentally-conscious persons who want to participate being denied participation.

(i) Other methods of funding household hazardous waste collection and disposal, including a surcharge on household hazardous wastes and the establishment of one or more permanent collection centers.

(j) Programs and methods for educating the people of this state about hazardous waste.

III. The study committee recommendation shall be in the form of a report to be submitted by November 1, 1991 to the governor, the president of the senate, and the speaker of the house.

IV. The membership of the committee shall be comprised of the following:

(a) Four members appointed by the New Hampshire Association of Counties.

(b) Four members appointed by the New Hampshire Municipal Association.

(c) Four planners with experience in hazardous waste site planning from regional planning commissions.

(d) One member of the senate, appointed by the senate president.

(e) One member of the house of representatives, appointed by the speaker of the house.

(f) One person from the department of environmental services, appointed by the commissioner of the department.

V. In addition to the members designated in paragraph IV, the chairperson of the committee shall designate a legislative staff person to perform certain administrative tasks on behalf of the committee, including the taking of minutes of any meetings, any photocopying, and any other matters related to the functions and duties of the committee.

VI. The committee shall elect its chairperson and shall meet on a regular basis.

VII. The committee shall adopt its own procedural rules.

2 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a study committee to review current and recommended procedures for the collection of household hazardous waste.

Amendment Adopted.

Ordered To Third Reading.

**SB 187-FN**, relative to establishing water rights for a portion of the Bellamy River for the city of Dover. Environment committee. Inexpedient To Legislate. Senator Fraser for the committee.

**SENATOR FRASER:** The committee on Environment heard limited testimony on SB 187, which established water rights for a portion of the Bellamy River for the city of Dover. However, the Department of Environmental Services did come before the committee to oppose this legislation. According to DES the rights that Dover is seeking with this legislation are coming before them under the chapter laws of 1989 in RSA 38:21. In addition, the water rights study committee is presently examining this whole question and the department felt that given the complexity of the issue, they were

the appropriate entity to propose any changes that may be needed. For this reason, the committee determined that this bill is unnecessary at this time and reports it as inexpedient to legislate.

SENATOR SHAHEEN: I sponsored this bill because the city of Dover and other cities in New Hampshire are concerned as a result of a ruling by the Attorney General back in 1989 on whether they really have rights to the water that flows within their boundaries. I understand the decision of the committee, inexpedient to legislate; however, I think it is important to remind the Senate that this is an issue that needs clarification and that I hope the committee that is working on water rights proceeds with full speed ahead so that we can get an answer for the cities and towns in New Hampshire so they don't face the dilemma of where is their water supply going to come from.

Committee Report Adopted.

**SB 226-FN**, establishing the town of Plaistow as a one-town solid waste district under RSA 149-M. Environment committee. Interim Study. Senator Russman for the committee.

SENATOR RUSSMAN: Senator King was originally going to report this out and he asked me to do this. The problem here is that if Plaistow is allowed to do that, they would not meet the requirements of 149-M, relative to the solid waste council in terms of leaving a district. The council who was there at the hearing testified essentially, that if Plaistow did indeed approach them and meet the requirements, which it seemed as though they could, they would be allowed out under the process which is in place at this time. Also there is litigation pending against the district and Plaistow, relative to dues that they claim Plaistow is owed. So the committee thought it should be sent to interim study and hopefully it will be resolved within the next year without benefit of legislation.

**SB 226-FN**, is sent to Interim Study.

**SB 53-FN**, relative to nonresidential and nonrural zoning. Executive Departments committee. Inexpedient To Legislate. Senator Colantuono for the committee.

SENATOR COLANTUONO: The subject matter of this bill is covered very adequately and much better actually in HB 248 which has already passed the House without amendment and is scheduled to be heard in the Executive Departments Committee next week. So the committee recommends inexpedient to legislate.

Committee Report is Adopted.



**SB 75**, relative to bargaining rights for state employees. Executive Departments committee. Ought To Pass With Amendment. Senator Currier for the committee.

**SENATOR CURRIER:** SB 75 amends RSA 273:A to allow state employees the rights now held by employees of cities, towns, and counties in the state. It does not give state employees extra rights, only equal rights. Equal rights to bargain a contract to cover their conditions of employment. The bill does not require the state, as an employer, to agree to anything. It only provides the process through which conditions of employment are determined. During the hearing processes, representatives of the state have said that SB 75 would cause confusion and chaos in the workplace, it would be an expensive experience. Quite to the contrary. The cities, and towns, and counties that currently bargain in this manner have not been dismantled, aren't in a state of chaos and haven't gone broke with labor relations as the cause. And they do manage to conduct their business as efficiently, and effectively, as the state, and in some cases, even better. SB 75 is truly a bill of equity. SB 75 entitles state employees the same rights as their counterparts, in cities, and towns, and I urge the Senate's adoption of the committee report.

**SENATOR ROBERGE:** I would disagree with SB 75. I believe that our state employees are extremely well treated. They were given a five percent cost of living increase last year. Their retirement benefits are the top of the line. I think morale is good among our state employees. And in the spirit of cooperation, I feel that we should not be expanding a benefit. I believe this is an additional benefit, and is not needed at this time.

**SENATOR HUMPHREY:** This bill is really a sleeper. I am surprised it hasn't attracted more attention than it has, because it proposes some pretty substantial changes in the status quo, relative to relations between the state and its organized employees who stayed in the unions. Presently we negotiate wages, benefits, and hours. But this bill proposed to expand the list of negotiable items very, very substantially. Let me just cite one of the pitfalls in this bill. Some of those new items of negotiations are things like promotion. The division of personnel is opposed to this bill, and I am told that this is a perennial bill that has always failed in the past. One can only conclude that if it has repeatedly failed in the past, that the Legislature, in its wisdom, must have had some good reason for rejecting it on prior occasions. But in any event, let me cite just one of the more serious pitfalls, as brought to our attention by the division of personnel in their testimony opposing this bill. The matter of promotions which will now become, if this bill passes, subject to negotiations.

The unions are almost likely, as unions are known to do, to seek to base promotions on the seniority system. The essence of our personnel system in this state is the merit system as opposed to the seniority system. The regulations are written in such a way as to try to insure that those who are meritorious will receive promotions. It is almost certain that The State Employees Association will seek to replace that system with a seniority system. That is just the modus operandi of labor unions. Almost inevitably, they seek to impose or negotiate a seniority system by which promotions are determined. That is just one of the pit falls. This bill opens up to negotiations not only promotion, but retention, hiring, a whole list of new items to be negotiated. What it comes down to is this: Do we want the tail wagging the dog? That will essentially be the case if this bill is enacted and I think that will be a mistake. I would ask for a roll call vote.

SENATOR SHAHEEN: Senator Currier, am I correct that this bill would not require that we give employees that list of items that Senator Humphrey just read, but rather it would allow employees to negotiate those items and the ultimate conclusion of those negotiations may be to give them the items and it may not?

SENATOR CURRIER: That basically is correct, Senator. What it does, it gives them the parameters to be able to negotiate those items. And quite frankly, I am really a little bit surprised about the boogeyman that is coming out in terms of what this is going to do to the state personnel system and so forth. I don't really see that.

SENATOR COLANTUONO: As one of the two members of the committee who voted not to report this out as an ought to pass, in a three to two vote, I had a request by a Senator to list the items that this bill would make subject to collective bargaining, and to explain some of the reasons why there was opposition to the bill in the committee. As Senator Humphrey said, this is a perennial bill that always loses. During the course of the committee testimony, a question was asked of the proponents, how long the present system has been in place, and the answer was back into the 70's and from that time forward it has always been that way. Further question was, what was the reason to change this? What is going wrong with the present system? Basically, there was no answer to that beyond what Senator Currier has already said, which is that the city, and county employees have this right and we need to make it fair and give it to the state employees, which I don't consider to be a good reason. These items presently are established by rules promulgated by the Department of Administrative Services pursuant to the rule-making procedure under the administrative procedures act. So notices are posted, there are public hearings. All parties have a right



to come in and have their say before the rules are promulgated. And that is where substantial input can come from anybody, a union person, an employee, an employer or an interested citizen. The specific items that will be taken from the rulemaking process and put into the bargaining process are: classification, appointment, promotion, demotion, transfer, discipline, removal, layoff, attendance and leave, and the availability of division records for public inspection. Several of those, namely promotion, and demotion, transfer, discipline, removal, layoff, are very significant. To require the state to have to bargain over those items, rather than simply rely on rules that have already been promulgated and everyone knows what they are, could lead to lengthy negotiating sessions, stalemates, referral to arbitration and endless court battles over these items. I think the state as an employer, and we have to remember the state is the people of New Hampshire, shouldn't have to endlessly bargain on these items. Senator Humphrey mentioned the problems of the employees asking to bargain over promotion and demanding it be done by seniority. The employees, through their unions, could also take a position. For example, that we won't allow layoffs and furloughs, and that would be a hard and fast position which we won't bend from. We can all see what kind of problems that would create in these times. These certainly aren't the times to change the rules of the game in that regard. There is one other point that I would like to address that came up in the hearing. It is the way the proponents of this bill kept referring to the state government as management, as if it were some type of robber barons back in the 19th century. The state of New Hampshire are the people of New Hampshire. It is different from private industry. The state should have much more leeway than they might have otherwise, in private industry under collective bargaining. I think the current system under state law, and the rules is a good system. It is working well, and I don't see any reason to change now and to create a whole new section of items that have to be bargained about every several years. I would urge a vote against the bill.

SENATOR J. KING: I rise in favor of SB 75. I look at it from a different point of view as some of the others here. I look at it from a very positive point of view, where the SEA and the personnel and the management together come up with a rule or some kind of plan that they can all agree on. I was a director in the state of New Hampshire at one time. On many occasions I was before the personnel board because of some of the things that happened. I look back and say some of those things could have been eliminated if there were certain agreements on certain things that you could do and couldn't do. This bill does not say that the personnel or the state or



the SEA for that matter, has to agree on everything or anything. It is hopeful that they can come to some agreement. You would probably eliminate more visits to the personnel and hearings by trying to do that, than not trying to do. There would be less contact in that case. The other thing is, within two years, if there is that much problem with it, this same Legislature or some other Legislature, could change their mind as they have done in the past.

SENATOR MCLANE: Briefly, I would like to say that state employees are people too, as well as the people of New Hampshire. I have seen very little evidence over the states problems of the last few months that state employees aren't doing their best to do their share. And for that reason, I rise in support of SB 75.

SENATOR DISNARD: I rise in strong support of the bill as amended. I hope you people would pay attention to page 18 in the calendar. I have been a chief negotiator, was a chief negotiator for many years. I think everyone here should realize that the state employees have one hand tied behind their backs when they negotiate as compared to private industry. New Hampshire labor relations laws do not allow public employees to have a work stoppage. That is a powerful weapon that has been taken away from the state employees in the bargaining unit. I am amazed that the state is considering and believing that they can't negotiate if some of these rights were given to the state employees as a possibility to negotiate. We aren't giving anything away. We should have strong negotiators. If they are strong negotiators, they should be able to stand up and do what they think is right. Negotiation doesn't mean you give everything away. Negotiation means you sit down and talk and try to reach a reasonable agreement. Thus I am in favor of this bill.

SENATOR W. KING: Senator Disnard, would you agree that the more issues we have on the table, the more the opportunity for us to come up with creative solutions when we have budgetary problems such as the ones we have right now?

SENATOR DISNARD: Yes, sir. Especially what we are going through today.

SENATOR HUMPHREY: Senator Currier, these new items which would be subject to negotiation under this bill are surely items which will create a lot of difficulty in the negotiating process. What happens if the negotiating parties can't reach an agreement?

SENATOR CURRIER: I am not an expert in personnel but I understand it would go to arbitration of some sort, and be resolved.

SENATOR HUMPHREY: Am I not right, and I will confess I am not entirely sure about this, but that ultimately, it comes back to the Legislature?

SENATOR CURRIER: I can't answer that question. Maybe Senate counsel can answer that question.

PRESIDENT DUPONT: As a point of order, we do adopt the bargaining agreement and the money required to support that negotiated contract between the state and its employees. But the negotiations take place between the executive branch and the state employees.

SENATOR HUMPHREY: If I am correct, as I believe I am, although I am not certain, that throws the matter back before the Legislature, which is very malleable under the force of organized special interest groups. My point is, does the Senator agree that if an impasse is thrown back into the Legislature, that puts it into an arena where organized groups can have an effect all out of proportion to their numbers as compared to the general interest?

SENATOR CURRIER: I think that is very possible, however, the bulk of my constituents being state employees, my wife having been a former state employee, I am not concerned about that. I think state employees are probably one of our most valuable resources and we treat them like second class citizens. I think it is about time that we gave them the same bargaining rights that other city, and town, and county officials have. It is as simple as that. Quite frankly, I think that if the state bureaucrats can't manage the state employees with them having collective bargaining rights beyond what they have now in terms of being able to develop employment conditions, then maybe we ought to replace some of those state bureaucrats. Maybe that is what we should be addressing here instead of this collective bargaining act. This bill, to my knowledge, passed the Senate last time in the last session. Before that, I am not sure that this has had a long historical record, that this has happened every year since we have been in session for the last ten years. I am not sure if that is correct. The only time I know for sure was the last legislative session.

### **Amendment to SB 75**

Amend the bill by replacing all after the enacting clause with the following:

1 Bargaining Issues Expanded. RSA 273-A:9, I is repealed and reenacted to read as follows:

I. Cost items, terms and conditions of employment, issues relating to classified personnel including, but not limited to, the items enumerated in RSA 21-I:43, II(a), (f)-(m), and (r), and other items not otherwise prohibited by RSA 273-A:3, III affecting state employees generally shall be negotiated by the state, represented by the governor as chief executive, with all interested bargaining units. Negotiations regarding terms and conditions of employment unique to individual bargaining units shall be negotiated individually with the representatives of those units by the governor.

2 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill expands the bargaining issues to be negotiated by the state on behalf of state employees.

A Roll Call was requested by Senator Humphrey.

Seconded by Senator Heath.

The following Senators voted Yes: Oleson, W. King, Hough, Currier, Disnard, Blaisdell, Pressly, McLane, J. King, St. Jean, Shaheen, Holingworth, Cohen.

The following Senators voted No: Heath, Roberge, Bass, Colantuono, Podles, Humphrey, Russman, Delahunty.

Yeas: 13

Nays: 8

Senator Fraser (Rule #42).

Paired votes: Senator Nelson and Senator Dupont.

Amendment Adopted.

Ordered To Third Reading.

**SB 135-FN**, relative to recovering costs, fees, and expenses in certain takeovers of utilities. Executive Departments committee. Ought To Pass With Amendment. Senator Currier for the committee.

**SENATOR CURRIER:** This bill had a long and extensive hearing. Basically, the bill is dealing with recovering costs, and fees, and expenses, of certain take-overs of public utilities. The amendment which is on page 18 of the calendar, basically adds some consumer protections relative to utility rate hikes in the case of take-overs, which disallows those costs being passed on to consumers in the rate base.



**Amendment to SB 135-FN**

Amend RSA 374:33-a as inserted by section 1 of the bill by replacing it with the following:

374:33-a Recovery of Costs, Fees and Expenses. In any proceeding under RSA 374:33 in which the public utilities commission determines that the proposed acquisition is not lawful, proper, or in the public interest, the public utilities commission shall review the costs incurred by the target company incident to the proceeding, determine which of those costs are reasonable and prudently incurred, and shall then require that the unsuccessful acquirer reimburse such costs to the target company. The public utilities commission is further prohibited from including in rates to ratepayers any of the costs, including, without limitation, all disbursement, expert witness fees, and reasonable attorneys fees incurred by either party in such proceeding. This section shall not apply to costs and expenses incurred prior to the effective date of this section.

Amendment Adopted.

Ordered To Third Reading.

Senator McLane (Rule #42).

**SB 142-FN**, relative to temporary utility rate increases. Executive Departments committee. Interim Study. Senator Colantuono for the committee.

**SENATOR COLANTUONO**: This bill generated a lot of controversy one way or the other. The committee felt it needed more time to study the matter and therefore, recommends interim study.

**SB 142-FN**, sent to Interim Study.

**SB 190-FN**, relative to insurance coverage for infertility. Insurance committee. Interim Study. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH**: The committee did vote for interim study, but I understand that there is going to be an amendment offered by Senator McLane, and the committee would then support the amendment.

**SENATOR MCLANE**: A group of people came to me, of all people in this Senate, about six months ago to discuss a problem that I had not dealt with myself, personally, nor did I know very much about. But I have learned a great deal since that day when they came to me. I don't think I have ever met a more dedicated, more sincere, and more caring, group of people than the people of RESOLVE, who are those among you, of young age, who are concerned with the

problems of infertility. I think the reason that I would like to defeat the interim study report and go on to an amendment which is prepared to have a committee established to study this problem, which would include the insurance industry and consumer public including those members of RESOLVE, is because these are people who do not have time to waste. By the time people have discovered that they do have a problem creating a child between them, there is no time to waste. So for that reason, I would ask you that you take the amendment which creates the study committee, but creates a study committee that would report back within a year.

Division vote.

Yeas: 4

Nays: 22

Interim Study motion fails.

### SUBSTITUTE MOTION

SENATOR HOLLINGWORTH: At this time, I would like to move ought to pass with amendment. The amendment would set up a study committee with the business community that would be involved, the insurance commissioner and those people who would be involved.

Senator Hollingworth moved to substitute Ought To Pass With Amendment for Interim Study.

Adopted.

Senator McLane offered a floor amendment.

SENATOR MCLANE: In recognition of that sterling vote, I will be very brief and urge you to vote for the amendment.

SENATOR PRESSLY: I rise in support of the amendment and the bill, ought to pass with amendment. If I understand this, this is a study group. It is going to involve the insurance people and the people seeking this service. In our country, we take great pride in our medical technology, and this field has had a great deal of advancement. Things are available today that have not been available for many years. I think it is really critical that every woman in our country have access to the finest medical technology available today.

SENATOR BASS: Senator McLane, on page 2 of your amendment, under compensation, you are giving the members of the legislature mileage but not the public members. Is there any particular reason why legislators who are usually here in Concord anyway, and entitled to mileage, are somehow deserving of compensation, whereas the public members should get nothing?

SENATOR MCLANE: I think if you look at every single study committee over the 22 years that I have been in the Legislature, you will find that the legislative members receive the mileage and that is it. My assumption is that they certainly wouldn't receive double mileage if they were here for another reason. They would receive one days pay no matter what committee they were attending.

### **Floor Amendment to SB 190-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study insurance  
coverage for infertility.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study all aspects concerning the feasibility of insurance coverage for infertility. The committee shall be composed of the following:

I. Two representatives, appointed by the speaker of the house.

II. Two senators, appointed by the senate president.

III. Two individuals representing the insurance industry, appointed by the governor.

IV. Two members of the consumer public, appointed by the governor. One such public member shall be from the group known as Resolve.

2 Meetings and Report. The first meeting shall be called by the first appointed senator within 30 days after the effective date of this act. The committee shall study all aspects of the issue of infertility insurance coverage and shall report its findings and recommendations for legislation to the senate president, the speaker of the house and the governor on or before November 1, 1991.

3 Compensation. Members of the committee shall serve without compensation, except that legislative members shall receive mileage at the legislative rate.

4 Effective Date. This act shall take effect upon its passage.

#### **AMENDED ANALYSIS**

This bill establishes a study committee to examine all aspects of the issue of infertility insurance coverage.

Floor Amendment Adopted.

Ordered To Third Reading.



**SB 200-FN**, relative to persons eligible to file requests for property tax abatements. Internal Affairs committee. Inexpedient To Legislate. Senator Roberge for the committee.

**SENATOR ROBERGE:** SB 200 prohibits people from soliciting people from the tax rolls to seek tax abatements. One clerk came in from one town that felt this was important. There does not seem to be a need for this legislation at this time.

Committee Report Adopted.

**SB 9-FN**, an act relative to a study of interactions between the mental health and criminal justice systems. Judiciary committee. Ought To Pass With Amendment. Senator Podles for the committee.

**SENATOR PODLES:** SB 9 establishes a task force to study and make recommendations regarding interactions between the mental health and criminal justice system in the state. The testimony was positive. The amendment adds a variety of new people, like the probate court judge, and the committee supports ought to pass with amendment.

#### **Amendment to SB 9-FN**

Amend paragraph I of section 2 of the bill by replacing all after subparagraph (f) with the following:

(g) One representative of the probate court system, appointed by the chief justice of the supreme court.

(h) One representative of the community mental health system, appointed by the commissioner of the department of health and human services.

(i) One person, or one family member of a person, with mental illness receiving services from the state mental health services system, appointed by the commissioner of the department of health and human services.

(j) One person, or a member of such person's family, who has been a victim of a violent crime committed by a person who was once in the mental health system, appointed by the commissioner of the department of health and human services.

(k) One person from the department of justice, appointed by the attorney general.

(l) A county attorney, appointed by the New Hampshire Association of Counties.

(m) The chairperson of the Department of Psychiatry of the Dartmouth Medical School, or designee.

(n) A representative of a community psychiatric emergency services program, appointed by the commissioner of the department of health and human services.

(o) The superintendent of New Hampshire hospital, or designee.

Amend the bill by replacing sections 3 and 4 with the following:

3 Membership; Chair; Meetings. The first meeting of the task force shall be called by the senator. The chair of the task force shall be chosen by the members at the first meeting. The task force shall conduct meetings in at least 3 separate municipalities in the state. Such meetings shall involve discussions with local representatives of community mental health centers, law enforcement agencies, and district, probate, and superior courts.

4 Report. The task force shall make a report of its findings and recommendations, including proposed legislation, to the president of the senate and the speaker of the house no later than November 1, 1991.

### AMENDED ANALYSIS

This bill establishes a task force to examine matters involved in the interactions of the mental health and criminal justice systems.

This task force is to submit its report, including proposed legislation, to the president of the senate and speaker of the house by November 1, 1991.

This bill was requested by the division of mental health and developmental services.

Amendment Adopted.

Ordered To Third Reading.

**SB 45-FN**, relative to bail jumping. Judiciary committee. Interim Study. Senator Russman for the committee.

**SENATOR RUSSMAN:** Basically, the problem is that this bill conceptually has a lot of merits in terms of trying to collect the virtually millions of dollars that are out there in unpaid fines and unpaid amounts to the court system. The problem that the committee had, and I might add, that it was unanimous in the vote of the committee, was that it establishes a new offense. And the basic problem was that if you forgot and you didn't pay your speeding ticket in Keene and you happened to be driving through Berlin, no offense to Berlin, Senator Oleson, and you had a taillight out and you were stopped on a Saturday afternoon, you could find yourself arrested and put in jail for the weekend, when in fact you had gone down to the courthouse and paid it, and the clerk's office failed to send an amended transcript out to the state. So the data base that the state police run your plate through and your license number through, could well come back that it was still under suspension, and you would have the



second offense of bail jumping. Now, I met with three district court judges and we talked at length about it. They recognized that there was a problem with it. We suggested that they go back and meet again. Their hope was that the police departments, once they found out there was an error, they wouldn't charge them, or even after they collected the money, they wouldn't charge them with this second offense. But we felt that it needed additional study. There were no public defenders that were on the committee that examined it. There were no defense attorneys on the committee that examined it. There are measures in the works right now with the Department of Safety, relative to registration plates as well as license renewals in terms of catching up with these people. So hopefully, when the bill comes back to us, it will be a bill that everybody can live with. So the committee unanimously asks that it be sent to interim study for further review.

SENATOR SHAHEEN: Senator Russman, how many people would be affected by this bill? How many people jump bail in the state of New Hampshire?

SENATOR RUSSMAN: Many, many people are either not showing up to court. One of two things happen. Either they don't show up to court and they are defaulted, and usually the license is suspended until the default is cleared. There is 1.6 million dollars in unpaid fines right now. The other things that happen, is that people get fined, they say they don't have the money at the moment and the judge gives them 30 days or what have you. Years ago, they went to jail at that particular time, but we can no longer do that. So they don't come back in the thirty days and just ignore it. The state sends them a notice that they're under suspension effective immediately, if they don't pay the fine within five days or something like that. Some pay it, some don't. The problem is that when they pay it, not uncommonly, the clerks office, for whatever reason in district court, fails to send that amended transcript so it gets fed into the data base. There really is an opportunity for abuse, unfortunately, because it would really be nice to collect that 1.6 million dollars.

SENATOR SHAHEEN: So essentially, what you are telling me is that right now when we have somebody who jumps bail, if we are lucky, we may happen to find them someplace along the way, otherwise they are lost to the system?

SENATOR RUSSMAN: Not always. Because what happens is, for example, when the person has done that, depending upon the next offense, if they are stopped for a DWI in another town, as opposed to a taillight out or something, they still do a license check and it would come back that they are under suspension. So they would be



charged with two offenses, and a default will show up on the record and they may well have to place a cash bail as opposed to personal recognizance bail. So they would have the opportunity to collect the money at that time, very often. But it would depend on why they are stopped.

SENATOR SHAHEEN: So what you are telling me, do I understand you correctly that we are in fact doing this on some people when we catch them?

SENATOR RUSSMAN: To some degree. For example, DWI second offense is a misdemeanor. So it is a bail situation and very often a cash bail. When you see these things on the record that they are already driving under suspension, that is a separate charge in itself. We thought adding another charge on top of that of "bail jumping" was not appropriate given the fact that not always is the data base correct that the state police are going to refer to. It is far from being foolproof, unfortunately.

SENATOR SHAHEEN: It is not foolproof now, either?

SENATOR RUSSMAN: No. Now it happens routinely that people have paid their fine and yet they are summoned to court on the basis of a default when they have actually paid the fine.

SENATOR OLESON: Senator Russman, since my district was brought into the conversation, I would like to reply if I may. Would you believe that in my district we do not have anyone that might be affected by this bill? They are all well mannered, qualified, law abiding citizens. However, if this bill will take care of some of these desperados that live below the notches, I will be more than glad to support you.

SENATOR RUSSMAN: I appreciate that and I was concerned about the flatlanders and the southerners who would come up and invade your better district.

SENATOR HEATH: I am rising against the motion of interim study. I would ask you to defeat that motion so that an ought to pass motion can be substituted. This legislation came into the legislature four years ago, or three years ago. In any case, the court system got together, came out against it for the reasons that Senator Russman enumerated. They sat down and designed this bill, the court systems who objected for those reasons. Now to send it to study, we finally got an agreement from the court systems, they wrote this bill word for word. I am trying to think of the name of the judge who brought this language back in. We have a problem. People are thumbing their nose at us. It isn't just people speeding. It is drunk

drivers who are killing people on our highways. They are thumbing their nose at the system because they get a better deal by jumping a PR bail, personal recognizance bail, than if they face the music. We can't allow that. Just this afternoon, we increased the tax on our business people. We can't allow these people not to pay their fines with impunity when we need money, thumb their nose at justice. This bill serves both justice, and it serves our financial situation. And if we don't act on this, we are throwing away the money that would be brought in by people who are the most grievous sinners in this regard rather than taxing mom and pop stores and things. And we would be bringing these people to justice. This is one that the court looked at, the court has worked out the language, and yes, the facilities are there now, electronically, to make instantaneous record in a central location with the state police as to whether these people have met their obligations. It will be on the record. Before any arrest is made, the arresting officer calls in and it is right there. I don't know how anybody could object to it, but I would urge you to defeat this motion and go with ought to pass. We have studied it and this is the result of the study.

SENATOR PRESSLY: Senator Heath, in following some of the other issues that we have dealt with this session, I recall that we have now made it possible, given the age of electronics, a person can pay some of their fines by using their plastic credit cards. Would this not be a rather compatible bill, in response to dealing with today's technology?

SENATOR HEATH: I think it is part of a whole package, to first extract from those people who have offended society what they owe society, before we go looking for money from other people. And the credit card helps that and this will certainly help that.

SENATOR HOLLINGWORTH: The Judiciary committee did vote unanimously that this bill should go to interim study. We didn't take this lightly, well knowing that there are hundreds of thousands of dollars out there that people have not paid in fees and fines. But we also felt that we were placing the state at great risk because we heard testimony that yes, though we have modern technology that does have, supposedly, up to the minute reporting that there have been errors, and that people's fines that have been paid, and many of us sitting on the committee each had our own horror story to tell of people we knew who had paid their fine and ended up in a similar situation. So it was not only those who testified before us, but those sitting on the committee who knew people, their neighbors and friends, who had experienced the failure of the so-called state of the art technology of the data bank. But what it did beyond that, was it



set up a whole new policy and that policy would be that if you were charged with a violation, and remember this is where the law is different, this is the only place that you are really addressing change in the law, is that those people who have a violation, and you are now going to give them a misdemeanor. That certainly is a policy change that we don't take lightly, and we don't think that is an appropriate measure to do, where there is so much at risk. So the committee felt that until we can come to terms and find some other way in which we can do this, that we should move a little bit slower, even though we were anxious for those dollars. We felt that it was inappropriate because we heard testimony that somebody could very well be on the way to the golf course with their children or on the way to the swimming pool with their kids and this very diligent officer would determine that his record came up on their data bank that he hadn't paid his fines and he could arrest him on the spot with the children and they could spend the weekend in jail, and on Monday find out that the bill was paid. So we felt that in view of those things, it was inappropriate for us to take this action at this time and we moved that the bill go to interim study until we can find a way to give more protection to our citizens.

SENATOR PODLES: Senator Heath, could you tell us if this will impact the indigent defense fund if we pass this bill?

SENATOR HEATH: It will impact it positively, because it will bring money into the state. And God knows that fund is getting out of control.

SENATOR ROBERGE: Senator Heath, changing a violation to a misdemeanor - a violation isn't punishable by prison, but a misdemeanor can be and can have court appointed council. That certainly would add costs to the state. Would you believe?

SENATOR HEATH: I believe this. I believe that if you don't make it a crime to thumb your nose at justice then we have no justice. Under the present situation, if a person doesn't show, if a person jumps bail, he is better off, because he has no criminal record, and so on. This is a very serious thing. These are the people who are out there and involved with killing people on our highways, much more than speeding. These are people who said when they were brought to justice once, to hell with that. I'll ignore it. And, yes, there may be a cost. And the overall bottom line is yes, you may have to defend some of these people. That is part of our constitutional government. But of all the ones you get, when you get them, you collect those fines and that will more than return in the longrun because we don't defend most of these people. That will return the money, but more importantly, these people have to be brought to justice and this does



it. And this is something the court system itself has looked over that is full of attorneys, needless to say. They came in with the same objections and they came in and wrote this bill themselves because they realized that they have a problem, we have a problem, you have a problem. It may be somebody you care about next. These people are saying that they have caught on to the fact that it is better to thumb their nose at the system and we have to go after them. If we don't vote this legislation, we are sending a very public signal to these people to just ignore it when you get caught. Because they are already catching on to that system.

SENATOR ROBERGE: Would you believe that I believe this bill is not revenue neutral and will cost the state money?

SENATOR HEATH: I would believe that you mistakenly believe that and that it is in fact revenue positive and it is justice positive.

SENATOR BASS: Senator Heath, have you noticed that the proponents of killing this bill have used in defense of their position, essentially, hypotheticals combined with horror stories, but in fact the real horror story here is that over 18,000 people in this state have decided that crime pays? And that it is easier to get away with not paying your fine than paying it? And in fact, the whole system of arresting individuals and bringing them to justice for motor vehicle violations is really becoming sort of a farce in this state because certain law-abiding citizens pay their fines, legally, whereas 18,000 in-state people and 4,000 out-of-state people have chosen not to do that. And we as a legislature have spent years trying to address this problem and finally when we get a chance, we kill the bill in the Senate?

SENATOR HEATH: I would agree with all except we kill the bill in the Senate. I would think we can save this bill, and I think we can bring some justice as well as some revenues for the state.

SENATOR COLANTUONO: I rise to explain some of the reasons why the committee recommended that this bill go to interim study. I think it is important to note that we are recommending interim study and not inexpedient because everyone on the committee unanimously believes that this is a serious problem. We believe that there needs to be a legislative solution. We studied this bill very carefully and we considered all the possible ramifications of this bill. We simply feel that this bill is not the answer. There is an answer out there somewhere, and we want to have some more time to work together with the district and municipal Judge's Association who recommended this particular solution. But I would like to point out some of the reasons why we think this bill is not the answer. First of all,

the bill only applies to people who fail to pay their fines. It is an amendment to the current bail jumping statute. It doesn't really have anything to say about people who never show up in court. It only applies to people who show up in court and get found guilty and have a fine assessed against them. The problem is that the court system right now, and certain courts in particular, are too lenient about letting the people leave the courthouse without paying their fines. We give too many time payments, and too many credit plans in some of the courts. First of all, we felt the court system should address that problem. Because if you look at the list of the various courts, we have one in particular, that is a medium sized court, not even one of the biggest courts in the state, that has over \$120,000 in unpaid bills right now on the books. You get a similar sized court that has only \$13,000 of unpaid fines. What is the reason for that? Because that latter court is much more efficient and more aggressive in the way they collect fines up front and don't let the people leave court without paying. We think more can be done in that vein to solve some of the problem. But there are two basic problems with this bill that led us to recommend further study. First of all the reliance on the data base. As Senator Hollingworth said, there have been many problems right now with the current system where people can get arrested based upon faulty data. And I don't know whether the Senators know this, but the Department of Safety has had an informal plan in effect over the past several years of actually paying damages to people who were wrongfully arrested, paying their towing expenses and if they spent the night in jail, paying them something for that. That problem is only going to increase with this because we have an imperfect world and there is a lot of miscommunication between the court system and the Department of Safety. People sometimes pay their fines and the information never gets up to the Department of Safety. Creating a misdemeanor offense for those kinds of people, is not the way to go. But the more basic problem is, this bill creates a new offense and makes the failure to pay a fine a misdemeanor of bail jumping, certain things happen. Keeping in mind that the purpose of this bill is to encourage fines to get paid, and when someone gets picked up for a traffic violation or so forth, and they have this on their record, the hope of the Judges' Association, was that that person was simply going to pay their fine, rather than face a new charge. But what happens, and what we believe may cause this bill to backfire and make the problem worse, is that if a person is arrested and brought into a police station, and told that in addition to the old fine that you have, you now face a new charge of bail jumping because of failure to pay the fine. If that person seeks legal council, the first thing any attorney will tell them is obviously, not to answer any questions. So therefore, the person



will not admit that they are the person named in the prior default, and they obviously, will not pay the old fine, because that admits the guilt to the new offense. So it is counter-productive. It defeats the purpose of what we are trying to do. Furthermore, Senator Roberge, is right. By making it a misdemeanor, you automatically make these people eligible for indigent defense council. We all know what the problem is with that system. It clogs up the court with this whole new offense. Because once they charge the person, it has to go through the court and run its course. If the person is found guilty, which they probably will be, it creates a whole new fine that you are trying to assess on a person who, for whatever reason, has not paid the first fine. Often times, it is because they don't have the money. It will just create a new default and it will just keep perpetuating the problem. I agree with everything that Senator Heath said, and everything Senator Bass said, about the purpose of the bill and the need for the bill, but simply this bill, technically read, doesn't adequately address the problem we are trying to get at. The beauty of interim study is that if we get new information and can come up with a better bill, as I understand the rules, we can come back next year because it will be a different bill. It won't be this same bill. I believe I am correct on that. One small, minor technical point here, is that another purpose of this bill was to allow a person who is arrested in one venue, one area of the state, if the default occurred in another area of the state, to have that default transferred up to the new court. In my professional opinion, I question whether that can be done. Because the way it would work and taking Senator Russman's example; if a person defaults and doesn't pay his fine in Keene District Court, and then gets stopped up in Berlin, the intent of this bill is to have the Berlin District Court prosecute the Keene offense. But any competent defense attorney is going to file a motion to dismiss, stating that Berlin District Court doesn't have any venue over that offense because it happened in Keene. I think they would be right, and I think the court would have to throw it out. So for all those reasons, I want the Senate to know that we took this bill very seriously. We had a very lengthy hearing, we had private meetings with the judges, we had them back in for work sessions. We took this bill as seriously, or more seriously, than any other bill that we have deliberated on this year; and we simply feel it would be a mistake to pass this bill, because it would make the problem we are trying to solve, even worse.

SENATOR HEATH: Senator Colantuono, if you did all this work on this bill, why was it that you were not able to perfect it, if you think, from your statements that there is a possibility that you can perfect it?



SENATOR COLANTUONO: Because in the crush of time, we simply didn't have time, and no one could come up with the right answer. We tried to get the courts to work on it further, but for some reason, the judges who came up with this, wouldn't agree that this wasn't the solution. They wanted this bill. I am sorry we got into that deadlock.

SENATOR HEATH: Senator, we have for a number of years, criticized the courts for not doing anything about this problem. I originally put in legislation to correct this problem. The courts came in and defeated that legislation with the same language that I have heard thrown at this piece of legislation today. And what I am wondering is, when they finally come in, knowing that they have not only a justice problem, but a financial problem as well as a credibility problem, and they come in with the answer, how is it that the people on the committee can't offer them the opportunity to try to resolve this and get some justice and get some revenue back into the system.

SENATOR COLANTUONO: I think that the people on the committee do want to give them that opportunity, but we couldn't come up with it in time to meet the crossover and I am sure every member of the committee would commit to spending the time necessary to find the answer over the next few months. I know I will commit to that.

SENATOR RUSSMAN: One of the things that I would like to point out is that the committee that they had was made up of judges, prosecutors, and policemen. There were no defense attorneys, there were no civil liberties type people, which if you are going to make this right for litigation, there were no indigent defense counsel invited, asked to comment or asked to speak or give their input on how to deal with this problem. We pointed that out to them and they said, "gee, we didn't think of that as part of the solution". I really think that the state also runs the risk of having some lawsuits against it from those people who may end up being incarcerated wrongfully because the data base is wrong. And that data base is, unfortunately, not anywhere near as accurate as it ought to be, and people would like it to be. At the same time, rather than kill the bill, because we think something does have to be done about this problem, I think the committee as a whole, would be willing to work with them and attend some hearings on it if they want it to be set up. But it is a complicated problem, and they have been working on it for several months, and I don't think in the period of two or three weeks, that this Senate committee would have been capable of actually remedying all the faults that there might have been. I would apologize also for any lame excuses that we may have thrown at the question.

SENATOR HEATH: A ray of light just came beaming through. I want to ask you this. Do you think the lack of defense attorneys on the judges study committee was more than made up for by a plethora of defense attorneys on the committee that recommended against this?

SENATOR RUSSMAN: No, as a matter of fact, I think it is like everything else that goes on around here. There needed to be a balance on that committee as there is on most committees. And without their input, to look at it from that side of it, as far as the types of things that they could come up with to throw a roadblock in front of this type of bill, I think that input is certainly critical in terms of making a workable solution in collecting all that money that is owed.

SENATOR HEATH: Senator, do you think that not only should we put defense attorneys, but we should put some violators on that committee and make it nice for them?

SENATOR RUSSMAN: I think that I'll give that the answer that it deserves.

SB 45-FN, is sent to Interim Study.

**SB 76**, relative to the age requirement for retirement communities. Public Affairs committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: SB 76 brings state law in line with federal law in terms of the average age of people required to live in a community that calls itself a retirement community and restricts children from that community. I urge its passage.

### **Amendment to SB 76**

Amend the bill by replacing all after the enacting clause with the following:

1 Age Change for Retirement Communities. Amend RSA 354-A:8, V-b (d) to read as follows:

(d) For the purpose of the age discrimination provision only, to the sale or rental of dwellings, the sale or rental of which is pursuant to a plan [for retirement or similar community or establishment limited to persons over a certain age, not less than 45 years] **to create housing for older persons. As used in this section, "housing for older persons" means housing:**

(1) **Provided under any state or federal program that the secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program);**  
**or**



(2) Intended for, and solely occupied by, a person 62 years of age or older; or

(3) Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subparagraph, the commission shall adopt rules under RSA 541-A which require at least the following factors:

(A) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons;

(B) That at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; or

(C) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing shall not fail to meet the requirements for housing for older person because persons residing in such housing as of the effective date of subparagraphs (d)(2) and (3) do not meet the age requirements of subparagraph (d)(2) and (3), provided that new occupants of such housing meet such age requirements because there are unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subparagraph (d)(2) or (3).

2 Applicability. Persons who are currently residing in retirement or similar communities pursuant to RSA 354-A:8, V-b(d) prior to the effective date of this act who are between the ages of 45 years and 55 years may continue to reside in such retirement or similar community after the effective date of this act.

3 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted.

Ordered To Third Reading.

**HB 179**, an act relative to authorization of treatment for communicable diseases. Public Institutions, Health and Human Services committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: This bill authorizes the Division of Public Health to provide individuals with treatment to prevent or control the outbreak of a communicable disease. This is a practice that the division has been involved with ever since its creation. However, there was a minor omission in the law when the division was created from the old Division of Public Health, which did not include the words "au-



thorizing a licensed physician to carry out the provisions of the chapter." Prior to Dr. Wallace's resignation, he routinely signed these authorizations. But what he didn't realize was that because this line was missing from the law, he was personally responsible, as a physician, for any problems which might occur as a result of the administration of these vaccines. And obviously, with Dr. Wallace gone, and Sue Epstein taking his place temporarily, she not being a doctor, the division was left in the position of finding somebody else to sign. And it was at that point that they realized that they didn't have the protection. All this bill does is place that protection there so that the division can continue to administer these vaccines without subjecting the physician in the division to personal liability. We urge your adoption of the committee report of ought to pass.

Adopted.

Ordered To Third Reading.

**HB 125**, an act relative to drink rails. Ways and Means committee. Ought To Pass. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The committee voted unanimously that this bill ought to pass. Last year when there was a recodification of the liquor laws, this bill was worked on and, lo and behold, it created many problems which no one anticipated, as to the distance between people's knees. We are sure that the law enforcement agencies have much more important things to do while they are inspecting the liquor licenses, and we would support this legislation of ought to pass.

**SENATOR SHAHEEN:** I guess I am confused about why the legislature is in the business of determining the width of drink rails in the first place?

**SENATOR HOLLINGWORTH:** I agree with you, Senator Shaheen, and in fact there are many people on the committee who feel the same way. Unfortunately, we felt that where they had worked so hard last year with recodifying the laws, that we should just amend this small package, and take a serious look at the laws and maybe bring some more of them up-to-date where the liquor enforcement is doing liquor enforcement and not dealing with the distance between people's knees.

Adopted.

Ordered To Third Reading.

**SB 157-FN**, relative to bingo and lucky 7. Ways and Means committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: We have determined that this is one of the major sources of raising revenue in this state, so bingo becomes increasingly important. So we have agreed to raise the pot from \$2,050 to \$3,500 and we are going to have four winner-take-all games. So we urge you, on behalf of the revenue, to adopt this.

### Amendment to SB 157-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to bingo.

Amend the bill by replacing all after the enacting clause with the following:

1 Number of Bingo Games Increased. Amend RSA 287-E:6, II(a) and (b) to read as follows:

(a) No more than one license shall be issued to a charitable organization per calendar month, and the license shall permit no more than [5] 10 dates of bingo in one calendar month. The license shall expire on the last game date authorized under said license.

(b) The provisions of subparagraph II(a) notwithstanding, a license may be issued to a charitable organization per fiscal year, and the license shall permit no more than [5] 10 game dates of bingo in one calendar month and no more than [60] 120 game dates of bingo in one calendar year. The license shall expire on the last game date authorized under the license. Charitable organizations electing to receive an annual license under this paragraph shall be ineligible to receive concurrently a monthly license under subparagraph II(a), and charitable organizations licensed under subparagraph II(a) shall be ineligible to receive concurrently an annual license under this subparagraph.

2 Amount Increased. Amend RSA 287-E:7, XI to read as follows:

XI. Except as provided in paragraphs XIII and XV, all prizes, tokens, or awards used, given, offered or awarded in connection with any game or series of games conducted on one game date shall not exceed the total value of [\$2,050] \$3,500.

3 Allowable Number of Senior Citizens' Bingo Games Increased. Amend RSA 287-E:11, II to read as follows:

II. Games may be conducted on [only] **more than** one day in any one calendar week.

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill amends existing law governing bingo games to:



(a) Increase the number of bingo games permitted monthly and annually.

(b) Increase from \$2,050 to \$3,500 the total money prize awarded in any one bingo game.

(c) Authorize more than one senior citizens' bingo game per week.

Amendment Adopted.

Ordered To Third Reading.

**SB 206-FN**, relative to liquor licenses for caterers. Ways and Means committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: This bill allows caterers with on-site facilities to serve liquor and beverages with meals at on-site facilities to the general public. The bill also authorizes the commission to issue supplemental licenses to caterers to hold a specific number of special events per year in which beverages and liquor may be served. We believe that this will bring in additional revenue to the state, and that it will also help those caterers that are finding it difficult to operate because of the economy.

#### Amendment to SB 206-FN

Amend the bill by replacing all after the enacting clause with the following:

1 On-Site Caterer's License. Amend RSA 178:20, V(e)(l) to read as follows:

(1)(A) The commission may issue a cocktail lounge license to any caterer with on-site permanent kitchen facilities and permanent dining facilities capable of seating 100 persons or more. Such license shall allow the licensee to serve liquor and beverages with or without meals to members of a private party **or with meals to the general public** in any room of such on-site catering facility designated by the commission. For the purposes of this paragraph, persons under the age of 18 shall be allowed in rooms **restricted to private parties and not open to entry by the general public** where beverages and liquor are served without a parent or guardian present. Such lounge license may allow the licensee to serve liquor and beverages on the premises of any public building approved by the commission. Licenses shall be granted only to such caterers as the commission, at its discretion, shall approve and then only to such caterers as shall show the commission on forms and under rules adopted by the commission that at least 50 percent of their combined food and liquor and beverage sales shall fall within the category of food. Caterers with annual food sales of \$100,000 or more



shall be exempt from the 50 percent requirement. Caterers shall notify the commission not less than 5 days in advance of a function specifying date and time of the scheduled function. New premises or locations shall be approved by the commission 10 days before the scheduled events.

**(B) The commission may issue to a caterer licensed under subparagraph (c)(1)(A) a supplemental license to set up a separate bar facility to serve liquor and beverages with food to public or private groups as approved by the commissioner. This supplemental license shall allow the caterer to hold up to 18 events, 36 events, or 52 events for the fee established in RSA 178:27, I. The caterer shall be responsible for compliance with this title and any rules adopted under it. The caterer shall notify the commission at least 5 days before any scheduled event which shall be serviced by such bar facility. The commission may suspend the use of any bar facility without affecting the status of any other license in effect on the caterer's premises.**

2 Caterer's Supplemental License Fees. Amend RSA 178:27, I to read as follows:

I. On-sale licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				\$1,200
Alpine Slide				1,200
Ballroom	\$45			1,200
Bed and Breakfast		\$480	\$840	
Bowling Facility				1,200
Catering (all)			1,200	
Catering (off-site only)				840
Catering (on-site only)	18 events - 450 36 events - 750 52 events - 1,200			
Club Social	18 events - 450 36 events - 750 52 events - 1,200			1,200
Club Veterans	18 events - 450 36 events - 750 52 events - 1,200			840
College Club				1,200

Convention Center			2,400
Dining Car	480	840	
Fairs	112		
Golf Facility			1,200
Hotel		840	1,200
One Day License			100
Performing Arts			336
Race Track			3,000
Racquet Sports			1,200
Rail Cars			1,200
Restaurant	480	840	1,200
Ski Facility			1,200
Vessel	480	840	1,200

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill allows caterers with on-site facilities to serve liquor and beverages with meals at its on-site facilities to the general public.

The bill also authorizes the commission to issue supplemental licenses to on-site caterers to hold a specified number of special events per year at which beverages and liquor may be served with food.

Amendment Adopted.

Ordered To Third Reading.

Senator Hollingworth (Rule #42).

**SB 213-FN-A**, relative to the distribution of meals and rooms tax revenue. Ways and Means committee. Ought To Pass With Amendment. Senator J. King for the committee.

**SENATOR J. KING:** This bill deals with revenue sharing. The rooms and meals tax, and basically what it does is an old fashioned one. It brings it back to the 1960's. It does it without bothering the money that is there now, and it does it in a gradual and painless, viable way. But because some of the group here today were unaware of the bill, I want to request that it be placed on the table until probably Thursday.

### Amendment to SB 213-FN-A

Amend the bill by replacing section 2 with the following:

2 New Section; Distribution of Meals and Rooms Tax Revenue. Amend RSA 78-A by inserting after section 25 the following new section:

78-A:26 Disposition of Revenue.

I. Beginning on July 1, 1994, and for each fiscal year thereafter, the department shall pay over all revenue collected under this chapter to the state treasurer, for deposit in the meals and rooms tax fund under RSA 6:12, I(nn). On or before October 1 of each year, the department shall determine the cost of administration of this chapter for the fiscal year ending on the preceding June 30, and it shall notify the state treasurer of these costs by a report certified by them as to correctness. After deducting the cost of administration of the chapter from the total income, the state treasurer shall distribute the net income as follows:

(a) Sixty percent to the general fund.

(b) Forty percent to the unincorporated towns, unorganized places, towns and cities. The amount to be distributed to each such town, place, or city shall be determined by multiplying the amount to be distributed by a fraction, the numerator of which shall be the population of the unincorporated town, unorganized place, town or city and the denomination of which shall be the population of the state based on the latest resident population figures furnished by the office of state planning.

II. For fiscal year 1994, instead of the 40 percent distribution in subparagraph I(b), 75 percent of each city's or town's 1976 distribution under RSA 78-A:23, shall be distributed under the provisions of subparagraph I(b), plus an amount equal to 75 percent of any increase in the revenue received from the meals and rooms tax for the fiscal year ending on the preceding June 30 not to exceed \$2,000,000. For fiscal year 1995, the amount to be distributed shall be equal to the prior year's distribution, plus an amount equal to 75 percent of any increase in the revenue received from the meals and rooms tax for the fiscal year ending on the preceding June 30 not to exceed \$3,000,000. For fiscal year 1996 and each year thereafter, the amount to be distributed shall be equal to the prior year's distribution plus an amount equal to 75 percent of any increase in the income received from the meals and rooms tax for the fiscal year ending on the preceding June 30 not to exceed \$5,000,000, until such time as the total amount distributed annually is equal to the amount indicated in subparagraph I(B).

Amend the bill by replacing section 4 with the following:



4 Effective Date. This act shall take effect July 1, 1993.

### AMENDED ANALYSIS

This bill changes the way revenue from the meals and rooms tax is distributed to cities and towns beginning in 1994. Sixty percent of the revenue is deposited into the general fund, and 40 percent is returned to cities and towns based on population.

Special provision is made for the distributions in fiscal years 1994 and 1995, specifying certain amounts which go into the general fund, and to cities and towns. For fiscal year 1996 and each year thereafter, the amount to be distributed will be equal to the prior year's distribution, plus an amount equal to 75 percent of any increase in the income received from the meals and rooms tax for the fiscal year ending on the preceding June 30 not to exceed \$5,000,000, until such time as the total amount distributed annually is equal to the 40 percent amount returned to cities and towns based on population.

Senator J. King moved to have SB 213-FN-A, Laid On The Table.

Adopted.

SB 213-FN-A, is LAID ON THE TABLE.

**SB 63-FN**, relative to the definition of ski craft. Wildlife and Recreation committee. Inexpedient To Legislate. Senator Heath for the committee.

**SENATOR HEATH:** The fact is, that this definition included an awful lot of things that were not intended — I don't think even the sponsor intended to include. It would do unknown damage to people who were not the target of the legislation by those who felt it was needed. The committee felt that this legislation was not needed.

### SUBSTITUTE MOTION

Senator McLane moved to substitute Ought To Pass for Inexpedient To Legislate.

**SENATOR MCLANE:** I just want to show you a picture of what we are talking about. The definition of a jet ski, if you remember the long great battle of the last session about jet skis, and the number of people who appeared at the hearing, says that the craft has two people sitting or standing on the craft. They have now produced a vehicle that carries three people. And for that reason they do not fall within the definition. The problem came about on Pleasant Lake in the town of Newport which has a ban on jet skis. Suddenly one morning, that loud whining noise that all of you know so well appeared. Everyone threw a fit along the sides of the lake and it

turned out that it was a three seater jet ski and for that reason was not banned. I think there is a very definite legal question, whether if there were only two people in the three seater jet ski that it could be banned. But this was a small bill to do with the definition. I believe that all of you who went through the many jet ski hearings of the last session, would know that there is strong support out there for the public hearing process which has evolved having to do with jet skis.

Recess.

Out of Recess.

Senator Dupont in the Chair.

Senator Currier moved to have SB 63, Laid On The Table.

Division Vote.

Yeas: 10

Nays: 9

SB 63-FN, IS LAID ON THE TABLE.

**SB 169**, prohibiting steel leg traps. Wildlife and Recreation committee. Inexpedient To Legislate. Senator Bass for the committee.

SENATOR BASS: I will begin by apologizing to Senator Heath, I was unaware of the tradition or precedent of not handing out fact sheets. The only reason why I had this material reproduced a couple of minutes ago, I was going through my committee file on the public hearing, and I thought it was particularly pertinent information. I thought it would shorten debate by not having proponents of the committee position have to go through the points one by one, and that rather the members of the Senate could digest it on their own. Nonetheless, I rise in support of the committee position of inexpedient to legislate. In essence, this bill would ban the use of leg hold traps except number one, mouse traps would be allowed as long as they were in houses or accessory buildings, and secondly, under the auspices of the Fish and Game Department if the use of those traps involved the safety of human beings, wild animals, or domestic animals. No particular definitions of the reasons why the Department of Fish and Game might trap them, but it just states those points. If you violate the provisions of this law, you would be guilty of a violation. Which means if you set a mouse trap in an inappropriate spot, technically, you could be guilty of a violation. Nonetheless, that is the bill we have before us. What is the effect of it? The effect of the bill is that the Fish and Game Department will no longer be able to manage wildlife as they have done for many years in this state, unless it involves the three exceptions I just mentioned. Secondly, farmers in this state would be unable to exercise any form of control over pests such as coyotes and fox who may be overpopulating a



given region. Lastly, and I think most importantly, no longer will a small but important group of New Hampshire people, namely fur trappers, be able to practice a profession that has been practiced in this state almost since its inception. Now one will say, and there will probably be a substitute motion made, that the 643 people really don't mean much. The fact of the matter is, that 643 individuals involved in this trade are significant, and a lot of us who come from rural districts find it to be a significant number of people. In fact, there were fewer people registered to trap in New Hampshire in many prior years. 1971, 1968 and 1957 through 1967 and yet there was no bill introduced at any time during that period to ban leg hold traps. The fact is, that this bill is a pet protection act. Most of the testimony we heard in public hearing was about Morris the cat, and Fido the dog, who got injured in a leg hold trap. Most communities have leash laws, and these pets probably shouldn't be out, in the case of dogs chasing deer and so forth. So I urge you to accept the committee position of inexpedient to legislate and protect this small group of individuals who wish to continue to practice an important and traditional occupation here in New Hampshire.

SENATOR ROBERGE: A couple of things I think ought to be clarified. Some of the individuals who oppose this bill are concerned about health issues and the spread of diseases by animals who are trapped in the leg hold trap. During the hearing on this bill, testimony was presented from the National Association of State Public Health Veterinarians, that according to the compendium of animal rabies control of 1990, trapping is not effective in reducing rabies. I think it is important to point out; however, that this bill does allow for the executive director of Fish and Game Department to authorize the use of this trap if health and safety of humans or animals is at risk.

### SUBSTITUTE MOTION

Senator Cohen moved to substitute Ought To Pass for Inexpedient To Legislate.

SENATOR COHEN: SB 179 is not an anti-trapping bill at all. The only thing that it seeks to do is, to ban the continued use of one particular archaic, unnecessarily cruel trap — the steel leg hold trap. Too often domestic animals are, in fact, caught. Many animals, unintended victims, die of starvation as a result of this trap, chew off their own legs or are attacked by other animals while being held in the trap. For every target fur bearing animal that is caught, two animals that are unintended are caught in those traps. Putting aside the legitimate emotional arguments, let's consider some economics



here. There are 643 trappers, as Senator Bass suggested in New Hampshire. There are 30,000 members of New Hampshire's Humane Society who have been polled who supported this measure. The average income for the trapper for the leg trap is \$164 a year. Nobody makes their living based on this particular trap. The use of the leg hold trap is not for income, it is for recreation. The question before us is, does the state of New Hampshire wish to allow a few trappers to recreate at the risk of unnecessary injury to dogs, cats, or other wildlife? Or, are we ready to let this cruel recreation go the way of other recreations, like cock fighting, and dog fighting? That used to be considered recreation as well. Steel trap proponents argue that the traps control the spread of animal disease. This is false. Sick animals have virtually no interest in the scents and the bait that are used to lure. The sick animals are, in fact, very rarely trapped. Studies have shown that the steel leg hold traps have failed to stop the spread of diseases like rabies. In addition, banning the leg hold trap is not a ban on trapping. Only this particular type of inhumane trap. I might add that this fur fact suggests that redesign continues in order to develop the most effective and humane devices which will be used when available. I would submit that they are available now and are readily accessible. In other states, when the leg hold trap is banned, fur taking did drop somewhat, but very temporarily. After a period of time the fur take actually increased with the use of other more humane traps. These traps are available. The other traps were generally developed by trappers, who themselves were tired of the inhumanity and unnecessary cruelty of this trap, who were still interested in catching the fur bearing animals. Other traps capture without inflicting pain. The leg hold trap, are not at all an economic necessity. Their use represents a cruel, and unnecessary recreation. I believe their continued use is incompatible with the attitudes of the vast majority of the people of New Hampshire, who care about the wildlife in the state of New Hampshire, as well as their domestic animals, and I strongly urge a vote of ought to pass.

SENATOR HEATH: It has been that kind of a day, and I guess I can see the numbers on this one. But I am going to say it anyway. Senator Cohen talked about alternatives. If I believed there were alternatives for certain species, I would support this legislation. But there are no alternative trapping methods, and trappers would use them if they were more effective, or as effective on species like coyote and fox. Leg hold traps are the only way that is left. There were more effective methods for those species, pitfalls, dead falls, the snares. We have banned all of those. Senator Cohen talked about the amount of money on average that trappers make from this recreation and sometimes partial income. He averaged it out. Well it is a

neat statistical trick. If you have 50 five foot tall people and you have 50 seven foot tall, it doesn't mean that everybody is six foot tall in that population. There are people who make a substantial second income in the north country from this practice. You are taking away a good portion of this practice by doing it. You are taking away a tradition. You are taking away something people have done, your ancestors have done. You are taking away something that has been an American tradition from the very exploration of this country. And, yes, it is anti-trapping. It has a high emotional appeal. You don't catch this animal in this trap and somehow he dies under anesthesia in some hospital that I haven't yet seen in the woods. And he doesn't die painfully. All animals die. There is no anesthesia for wild animals. There is no hospital. They die by drowning. They die by getting caught in fences. They die by running across roads, and getting hit by cars and trucks. They die of starvation when they get old and lose their teeth. They die when an owl or some other predator larger than they, attacks them. They do not die nice deaths. Nature is cruel. Some of you people who have spent less time in nature don't understand that. You look at your meat in cellophane instead of when it is in the fur. The fact is, nature is cruel. You can feel good and pass this and say, boy those leg hold traps won't stop any animals. I know that most of you have never been out on a trapping line, I have. The animals stand there fairly docilely after the first few minutes after they have been caught. It is no crueler a death than they will experience on average, every single one of them. And what you are doing is eradicating tradition, a wildlife management tool, part of an income that exists at least north of Concord. And, you are doing it, I suggest, for less than good reasons. You can draw a picture of it, you can take a photograph of it. You can sell it to raise money for the humane society. It is real popular and you can get a lot of people emotional who don't seem to want to deal with the realities of nature, and the wild who don't consider what they do as important to their income, as well as their recreation, as well as their sense of tradition. And, as we move forward, we took the teeth out of leg hold traps, we put a rubber liner on them, now you are taking the leg hold traps. You are presenting to me, that no this isn't anti-trapping, and no it won't go any further. You will be down here, because one more time the Humane Society will want to have a fundraiser and you will come out with another. Eventually, you will get rid of trapping, and following that you will get rid of forms of hunting, and perhaps even fishing. I think that would be the last to go. But I want you to know that I don't take it lightly. A lot of people in my district practice this. It is some people's partial income. I would ask you to vote down the substitute motion, and kill this legislation as the committee recommended.



SENATOR PODLES: I rise in favor of the motion ought to pass. We have heard from Senator Cohen, some arguments regarding the economic impact that the ban of this trap may have on trappers, many of whom are making a living on trapping. But what about the economic impact on the hundreds of animal owners in New Hampshire who have to pay the veterinarians bill for their injured animals. Testimony was presented at the hearing of this bill and it addressed a survey of New Hampshire veterinarians. This survey indicated that many of the vets agree that this trap is inhumane, and at least two thirds of the vets who answered the survey indicated that they have treated wild or domestic animals for trap wounds. I am concerned for the citizens of New Hampshire who have to pay the high veterinarian bills. I am sure that there are those who feel that domestic animals do not belong in the land where traps are set. However, we all know that there is no control over where cats may go. And is it fair to the dogs who may accidentally get away from the owners to suffer in these traps? I don't think it is fair. The cost of treating an animal wound is sometimes not affordable by the owners and the only alternative would be to have the animal put to sleep. Any animal that steps in this trap, whether it is a dog, whether it is a cat, or targeted fur bearer animals, or non targeted fur animals. I urge ought to pass on SB 169.

SENATOR HEATH: Senator Podles, when I talk about conibear, do you know what kind of a trap I am talking about?

SENATOR PODLES: No, I don't.

SENATOR HEATH: That is a trap that is essentially an open square that butterflies this way. It snaps that way. It is also known as a killer trap. That is allowed and if this legislation passes, it will probably be the substitute on those species that can be caught with either trap. That trap kills its animal instantly. I explain that because when you are talking about animals who have strayed off their property, and accidentally get caught in leg hold traps, I want to ask if you would prefer that they get caught in a leg hold trap, most of which can be released without serious harm, or would you prefer that they go to the conibear trap, in which case the animals will be dead when it steps in the trap?

SENATOR PODLES: I believe that there is such a thing as a box trap, too. So that can be used as an alternative.

SENATOR HEATH: Senator Podles, would you believe that no serious trapper would ever attempt to catch 90 percent of the species that exist in the wild in New Hampshire with a box trap, because it would be a waste of time?



SENATOR PODLES: No, I don't know that, Senator. I am not a trapper.

SENATOR SHAHEEN: I rise in support of this bill. What I would like to do is read to the Senate, a letter that I received from a fourth grader at Horn Street School in Dover. I think it captures the feeling of some of the people opposed to the bill.

"Dear Senator Shaheen: My name is Ralph R. Sawyer IV. I like sports. My favorite show is the Cosby show and my favorite food is pizza. Plus my favorite Senator, is Senator Shaheen. I would like to ask you to help me with the leg hold trap. I do not like the leg hold trap, because it really hurts the animals who get caught. I mean those animals want to live like us and they should. The box trap is fine, but the leg hold trap injures those beautiful animals. How would you feel, or anybody would feel caught in a leg hold trap? And when the animals are caught and then undone, they look like they are trash thrown into the ocean. They should be free. This is my fact of this letter. This is a free country for us, right? It should be a free country for them too. This world is for sharing. Thank you for your help."

Senator Currier moved the question.

Adopted.

A Roll Call was requested by Senator Heath.

Seconded by Senator Fraser.

The following Senators voted Yes: Cohen, Hollingworth, Delahunty, Shaheen, St. Jean, Russman, Humphrey, Podles, McLane, Pressly, Roberge, Disnard, Hough.

The following Senators voted No: J. King, Bass, Blaisdell, Currier, Fraser, Heath, W. King, Oleson.

Yeas: 13

Nays: 8

Paired votes: Senator Nelson and Senator Colantuono.

Ought To Pass Motion Adopted.

Ordered To Third Reading.

**SB 193-FN**, relative to limits on motorboat speeds. Wildlife and Recreation committee. Inexpedient To Legislate. Senator W. King for the committee.

SENATOR W. KING: I defer to Senator Currier.

Senator Currier moved to have SB 193 Laid On The Table.

A Roll Call was requested by Senator Humphrey.

Seconded by Senator Heath.

Senator Humphrey withdrew the request for a roll call vote.

Senator Delahunty requested a division vote.

Senator Delahunty withdrew the request for a division vote.

Senator Currier moved to have SB 193-FN, Laid On The Table.

Adopted.

SB 193-FN, IS LAID ON THE TABLE.

**HJR 2**, Joint Resolution providing that the Kona Wildlife Management Area shall be forever managed by the state of New Hampshire in a manner so as to protect its habitats. Ought To Pass. Senator Heath for the committee.

SENATOR HEATH: This is a good bill and I urge you to vote for it.

SENATOR PODLES: Could you tell me something about the Kona Wildlife Management area. What is it and where is it?

SENATOR HEATH: It is a wonderful place with lots of furry animals running around free.

SENATOR PODLES: That is not the answer I wanted.

SENATOR HEATH: I told you I thought. But I'll tell you a little bit more about it. It is a piece of land that lies against Winnepesaukee. It is the last undeveloped one, that includes a profile of the whole watershed. There has been a number of moves to make it into a state park that get high intensive use. It has wetlands, it has conifers, it has hardwoods, it has shoreline, it has a small piece of natural beach. It contains moose, and deer, and beaver, and a little beaver pond, and fox, and other fur bearing animals, and birds. People use it to swim, they use it to hike, they use it to photograph, they use it to hunt, and they use it to fish, and they use it to commune with nature. And it is a piece that we felt, both on the study committee, and the committee, needs to be preserved as sort of a litmus against the development of the rest of the lake, so that some generations subsequent to ours will have an idea what the world looked like before the condo.

Adopted.

Ordered To Third Reading.

## HOUSE NONCONCURS WITH SENATE AMENDMENT REQUESTS COMMITTEE OF CONFERENCE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from the Senate:

**HB 593-FN-A**, relative to the rate of the business profits tax.

Senator Dupont moved to accede to the House request for a committee of conference.

Conferees for the House: Donna Sytek, Robert Hayes, Caroline Gross, David Lamar.

Conferees for the Senate: Richard Russman, Thomas Colantuono, Beverly Hollingworth.

## RECONSIDERATION

Senator Russman moved Reconsideration on SB 165-FN.

**SB 165-FN**, an act relative to permit fees for the excavating and dredging permits. Environment committee.

Adopted.

Senator Russman offered a floor amendment.

SENATOR RUSSMAN: Delbert Downing happened to look at the material in the calendar and as it turned out, when we passed the bill relative to what Mr. Kenison and Mr. Downing signed. We passed the language that the bill proposed, plus the amendment that they signed. So I am offering a new amendment, which is simply, at their request, the amendment which the two of them signed, so we would not be passing both the original bill and the amendment.

SENATOR SHAHEEN: I don't understand what you are doing with this, Senator Russman.

SENATOR RUSSMAN: What happened was the bill, as it was originally presented to the committee, we passed that and the amendment that you have before you. So what we need to do is go back and amend it such that the language is strikened out, and that is why the first part says: amend all after the enacting clause. We are adding a new paragraph to the existing law. What we passed earlier, changed the law and did this as well. So we need to go back and redo it so we don't change the law. We leave that the same, and add this to it to limit the fees.

## Amendment to SB 165-FN

Amend all after the enacting clause with the following:



1 New Paragraph; Maximum Fee Established. Amend RSA 482-A:3 by inserting after paragraph IX the following new paragraph:

X. The maximum application fee for the New Hampshire department of transportation shall be \$10,000 per application plus provisions for technical or consulting services or a combination of such services as necessary to meet the needs of the wetlands board. The wetlands board may enter into a memorandum of agreement with the New Hampshire department of transportation to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of their standard application fees.

2 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill sets a maximum fee of \$10,000 for excavating and dredging permit applications for major impact projects. In addition, the bill permits the department of transportation to enter memorandum agreements with the wetlands board in order to meet the board's requirements.

The bill also establishes \$10,000 as the maximum application fee for technical or consulting services required to meet the needs of the wetlands board.

Floor Amendment Adopted.

Ordered To Third Reading.

SENATOR HEATH (Rule #44): In the years that I have been in the Senate, I haven't seen parliamentary inquiries used as they have in the House until this year. I think they impede the progress of this body. I know that I may have gotten out of line in the use of the Rule 44 today, but I would suggest to you that we are a small body. We don't need to impede our progress in moving towards the resolution of a consensus in this body. And we ought to start abandoning this. It may be useful in the House. When they call people in, they come from all directions and it takes quite a while to get settled down, and they lose track of what is going on on the floor. But I would hope that all of us, in the future, would abandon the use of parliamentary inquiries to lay one more argument. They sort of violate the tradition of a tabling motion that is nondiscussable as a way to get around it. They slow down by having people essentially contesting for one last word. I think they leave the Senate President in a difficult position of having to rule, when they get entirely out of order, as he did today. I would hope that we all, in a gentlemen's agreement, agree to not start that tradition. It is more fitting to use it in the House and not in the Senate. And it will move our work forward in a more expeditious way, if we don't start doing the parliamentary inquiries as a way of making a last argument.

PRESIDENT DUPONT: Thank you, Senator Heath, the Chair appreciates your remarks. I have indicated to you privately, it will be my intent to start defining when we cross the barrier between parliamentary inquiry and statement, and be a little bit more affirmative about how I do that.

SENATOR PRESSLY (Rule #44): I rise to respond to that. I think the parliamentary inquiry has its place like every other aspect of our rules and legislation. Where the problem comes in, is the abuse and excess. And I certainly hope that it is important, particularly after a complicated debate, that we do have that opportunity to clarify it. I do appreciate the fact that you, as the President, will draw that line between clarification which is legitimate and appropriate, and the individual who chooses to abuse that privilege, and use it to get one last argument or one last thought across. I believe it does have its place, and I think, like everything else, it is the abuse that is the problem.

PRESIDENT DUPONT: I would just add that the purpose, as we know, of a parliamentary inquiry, is to help the body to clarify where it is at at a given point in time. To be honest, I have difficulty figuring out where we are, but I have assistance up here to help me in that. So I have tried, when possible, to continue to repeat where we are at, for the purpose of making sure that everyone is clear. We do not want to cast a vote in this body without the members feeling comfortable about what they are voting on. Your remarks about parliamentary inquiry are appropriate and the Chair will do its best to make sure that they stay within the bounds of a parliamentary inquiry.

## ANNOUNCEMENTS

### RESOLUTION

Senator Delahunty moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted and that they be passed at the present time.

Adopted.

### RESOLUTION

Senator Delahunty moves that the Senate be in recess to Thursday, March 21, 1991 at 1:00 for the sole purpose of introducing legislation before it goes to committee and scheduling hearings and enrolled bill reports.

Adopted.

Senator Currier moved that we recess until Thursday, March 21, 1991 at 1:00 p.m.

Adopted.

## **LATE SESSION**

### **Third Reading and Final Passage**

**SB 9-FN**, an act relative to a study of interactions between the mental health and criminal justice systems.

**HB 50-FN-A**, an act relative to state revenue and expenditures.

**SB 75**, an act relative to bargaining rights for state employees.

**SB 76**, an act relative to the age requirement for retirement communities.

**SB 102-FN**, authorizing the bank commissioner to establish and administer a public deposit investment pool.

**HB 125**, an act relative to drink rails.

**SB 135-FN**, an act relative to recovering costs, fees and expenses in certain takeovers of utilities.

**SB 157-FN**, relative to bingo.

**SB 165-FN**, an act relative to permit fees for excavating and dredging permits.

**SB 169**, prohibiting steel leg traps.

**HB 179**, relative to authorization of treatment for communicable diseases.

**SB 183-FN**, an act relative to the Lamprey Regional Solid Waste Cooperative.

**SB 186-FN**, establishing a committee to study household hazardous waste.

**SB 190-FN**, establishing a committee to study insurance coverage for infertility.

**SB 206-FN**, an act relative to liquor licenses for caterers.

**HB 593-FN-A**, an act relative to the rate of the business profits tax.

**HJR 2**, Joint Resolution providing that the Kona Wildlife Management Area shall be forever managed by the state of New Hampshire in a manner so as to protect its habitats.

Senator Currier moved that we recess.



Adopted.

Recess.

Out of Recess.

### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until March 21, 1991.

Adopted.

Senator Delahunty moved to adjourn.

Adjournment.

*March 21, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let Us Pray. Help us Lord, in our daily duties and our gratitude to you for giving us good health and whatever we really need and are worthy of. And also keep in mind that when we are dealing with others, that we should do unto others as they should do unto you.*

*Amen.*

Senator Humphrey led the Pledge of Allegiance.

### ANNOUNCEMENTS

#### HOUSE MESSAGE

#### INTRODUCTION OF HOUSE BILLS

### RESOLUTION

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 111 through HCR 10 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

- HB 111 - relative to protective well radii. Environment Committee.
- HB 136-FN - relative to current use assessments and the land use change tax. Ways And Means Committee.
- HB 139-FN - relative to fair credit billing. Banks Committee.
- HB 241 - relative to the age requirement for retirement communities. Public Affairs Committee.
- HB 242-FN - relative to the powers of county conventions. Internal Affairs Committee.
- HB 245 - prohibiting pre-season baiting. Wildlife And Recreation Committee.
- HB 250-FN - relative to the board of nursing. Executive Departments Committee.
- HB 256 - limiting liability of any person, firm or corporation which donates equipment or services to any postsecondary technical training program. Education Committee.
- HB 259 - permitting a municipal governing body to assign street numbers. Public Affairs Committee.
- HB 274-FN - relative to sentencing to county correctional facilities. Judiciary Committee.
- HB 278-FN - relative to liability and indemnification of regional planning commissions. Judiciary Committee.
- HB 286-FN - relative to the operation of powerboats on Long Pond in the town of Northwood. Wildlife Committee.
- HB 289-FN - relative to regulating commercial salt water fishing. Wild life Committee.
- HB 292-FN - relative to the real estate tax lien process. Executive Departments Committee.
- HB 356-FN - relative to uniform penalties pertaining to farm products. Environment Committee.
- HB 373-FN - relative to agricultural and farm motor vehicle license plates. Transportation Committee.
- HB 407 - relative to failure to report injuries resulting from criminal acts. Judiciary Committee.
- HB 450 - relative to claims to dower and curtesy. Judiciary Committee.
- HB 452-FN - relative to solicitation of prostitutes. Judiciary Committee.

HB 458 - relative to the composition of the wetlands board. Environment Committee.

HB 481-FN - allowing nursing home administrators to file for disposition of a deceased individual's estate. Public Institutions Committee.

HB 486-FN - relative to collection of forfeitures of recognizances by the division of motor vehicles. Transportation Committee.

HB 555 - limiting horsepower on Big Pea Porridge Pond. Wildlife Committee.

HB 559-FN - relative to commercial and recreational fisheries. Wildlife Committee.

HB 581 - relative to personal property of tenants. Executive Department Committee.

HB 620-FN - relative to the transportation of alcohol in open containers. Transportation Committee.

HB 629-FN - establishing a task force on congregate housing. Public Affairs Committee.

HB 656-FN - relative to criminal mischief. Judiciary Committee.

HB 659-FN - relative to legal representation in eviction proceedings. Judiciary Committee.

HB 672-FN - relative to standards for fire safety for community living facilities. Public Institutions, Health & Human Services Committee.

HB 684-FN-A - regarding the committee to study conservation and preservation of state historic flags and making an appropriation therefor. Internal Affairs Committee.

HB 617-FN - relative to fishing permits for certain head-injured persons. Wildlife Committee.

HB 707-FN relative to contracts for services other than counsel. Judiciary Committee.

HB 715-FN - relative to the right to jury trial in civil cases. Judiciary Committee.

HCR 10 - requesting Congress to propose an amendment to the United States Constitution prohibiting unfunded federal mandates. Executive Departments.



### HOUSE MESSAGE

The House of Representatives has passed a resolution with the following titles, in which it asks the concurrence of the Senate. HCR 13, calling for a delay in the implementation of the Internal Revenue Service advisory opinion on mileage reimbursements for members of the general court.

### SUSPENSION OF THE RULES

Senator Delahunty, moved that the Rules of the Senate be suspended to dispense with the holding of a hearing, the notice of a committee report in the calendar, and that the bill be put on Second Reading at the present time.

**HCR 13**, calling for delay in the implementation of the Internal Revenue Service advisory opinion on mileage reimbursements for members of the general court.

Adopted.

SENATOR DELAHUNTY: HCR 13, calling for the delay in the implementation of the Internal Revenue Service advisory opinion on mileage reimbursements for members of the general court was sent over by the House and I guess our position is the same. I urge your support.

PRESIDENT DUPONT: If I may use the chair for one moment. There has been a disagreement between the IRS and the Legislature which the Speaker, and myself, as well as administrative services, have been involved in whereby they would like to require our mileage payments to be wages rather than expenses, which takes some individual members of the legislature who receive certain payments in pensions or SSI payments and puts them in a position where they would lose those benefits. We've asked the congressional delegation to get involved and the purpose of this is to send a message to the congressional delegation that we reinforce their position. So the House has suspended their rules and allowed it in today.

Ordered To Third Reading.

### HOUSE NONCONCURS WITH SENATE AMENDMENT

### REQUESTS COMMITTEE OF CONFERENCE

**HB 50-FN-A**, an act relative to state revenue and expenditures.

Senator Blaisdell moved to accede to the House request for a committee of conference.

Conferees for the House: Elizabeth Hager, Donna Sytek, Neil Kurk, Charles Vaughn.

Conferees for the Senate: Edward Dupont, Clesson Blaisdell, Ralph Hough.

Committee of Conference Changes on HB 593-FN-A, an act relative to the rate of the business profits tax. Senator Richard Russman off — Senator Edward Dupont on.

### COMMITTEE REPORTS

**SB 59-FN**, an act relative to a state-sponsored credit card program.

Banks committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, the vote of the Banks committee was unanimous to adopt the so-called affinity credit card program. The amendment, Mr. President, which is the report on page eight of the calendar, allows the state to get into the affinity credit card business, with all proceeds earmarked for funding state aid to education. It further authorizes the department of Administrative Services to negotiate with New Hampshire Financial Institutions, subject to the approval of a fiscal committee. My colleagues in the Senate, I urge the adoption of the amended version of SB 59.

### Amendment to SB 59-FN

Amend RSA 21-I:67 as inserted by section 1 of the bill by replacing it with the following:

#### 21-I:67 State-Sponsored Credit Card; Distribution of Proceeds.

I. The department of administrative services is authorized to participate in a New Hampshire financial institution credit card program for the benefit of the state. Within 180 days of the effective date of this section, the department shall request proposals from New Hampshire financial institutions which have a credit card program which would accept the state as a sponsoring entity and provide a fee on retail sales to the state for issuance and use of the credit card. Before entering into a contract with any credit card issuer, the department shall obtain the approval of the fiscal committee. The state shall not offer a more favorable rate to any credit card issuer. The state treasurer shall credit the proceeds of the fee to a special fund. Money in such fund shall be continually appropriated for the sole purpose of funding state aid to education under RSA 198:27-33.

II. The commissioner of administrative services shall adopt rules, pursuant to RSA 541-A, relative to the state's participation in a New Hampshire financial institution credit card program under this subdivision, including rules regarding criteria for proposals from New Hampshire financial institutions under paragraph I of this section.



### AMENDED ANALYSIS

This bill authorizes the department of administrative services to negotiate with New Hampshire financial institutions to allow the state to be the sponsoring entity for a New Hampshire financial institution credit card, subject to the approval of the fiscal committee. The fee received by the state for being a sponsoring entity shall be continually appropriated for the purpose of funding state aid to education through foundation aid.

Amendment Adopted.

Ordered To Third Reading.

**SB 155**, an act relative to mechanics' liens. Banks committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: My colleagues in the Senate, this is a red letter day for the Senate. We have an agreed bill on the mechanics' lien. I want to give you a little bit of history of this issue and how we endeavored to solve the problem. For several years now the general court has agonized over some method of protecting subcontractors, suppliers, and material people who historically have been caught in the middle when the borrower, be it a developer or general contractor, has received a proceed or loan from the bank, but for one of many reasons, failed to pay the sub or the supplier what was due to him. As we all know, there is no contractual relationship between the sub, supplier of material and the lender. The lender obviously, is required to pay the borrower based on an effort that it goes to the sub after the goods have been paid. Mr. President, and my colleagues, the affidavit wasn't always submitted in an honorable manner and would leave the sub out in the cold. As I suggested earlier the issue has been around for quite sometime. Senator Podles, Senator Roberge, and Senator Heath among others can attest to the fact. Any of our former House members who now serve in the Senate can I'm sure also recall the difficulty this bill, this issue has created. Mr. President, in February of this year we had an excellent public hearing, following which the associated builders and contractors and representatives of the banks, sat down and hammered out an agreement. The amendment is reported on page eight of the calendar. Essentially, what the amendment does is number one, it requires the name, address and the telephone number of the lender to be posted in a conspicuous place at the job site. Number two, it requires that the subcontractor, suppliers, and materials people notify the lender that they are working on the project so that the lender knows who to pay. Number three, Mr. President, the most important aspect of the bill, is that it allows the bank to issue two-party checks,



payable to both the borrower and the subcontractor or the general contractor. I'm sorry, payable to the general contractor and the subcontractor. Number four, it extends the amount of time that the lien can continue after the services are performed or materials furnished from 90 days to 120 days. Mr. President, this couldn't have been accomplished without the outstanding effort by Mark Holden, representing the Home Builders Association, and Attorney, Don Pfundstein, representing the banks. And I wish to take this moment to acknowledge their effort on behalf of our committee and with that, Mr. President, I urge that the bill as amended be adopted by the Senate. Thank you very much.

### **Amendment to SB 155**

Amend the bill by replacing all after the enacting clause with the following:

1 Duration of Liens. Amend RSA 447:9 to read as follows:

447:9 Duration. The lien created by RSA 447:2-7 inclusive, shall continue for [90] 120 days after the services are performed, or the materials, supplies or other things are furnished, unless payment therefor is previously made, and shall take precedence of all prior claims except liens on account of taxes.

2 Attachment Priority; Fraudulent Affidavit. RSA 447:12-a is repealed and reenacted to read as follows:

447:12-a Attachment Priority. Such attachment shall have precedence and priority over any construction mortgage. For the purposes of this section, a construction mortgage shall mean any mortgage loan made for the purpose of financing the construction, repair or alteration of any structure on the mortgaged premises where the lien secured by such attachment arises from the same construction, repair or alteration work. However, such attachment shall not be entitled to precedence as provided in this section to the extent that the mortgagee shows that the proceeds of the mortgage loan were disbursed either toward payment of invoices from or claims due subcontractors and suppliers of materials or labor for the work on the mortgaged premises, or upon receipt by the mortgagee from the mortgagor or his agent of an affidavit that the work on the mortgaged premises for which such disbursement is to be made has been completed and that the subcontractors and suppliers of materials or labor have been paid for their share of such work, or will be paid out of such disbursement. A mortgagee shall not knowingly accept a fraudulent affidavit, and shall encourage and promote the practices outlined in RSA 447:12-b. Any agreement waiving the precedence provided by this section shall be enforceable only upon like showing by the mortgagee. The precedence provided by this

section shall not apply to wage claims of employees working for wages under an employer-employee relationship, as defined in RSA 275:42. A mortgagor or his agent making a wilfully false affidavit under this section shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

3 New Section; Additional Responsibilities; Construction Mortgages. Amend RSA 447 by inserting after section 12-a the following new section:

447:12-b Additional Responsibilities; Construction Mortgages.

I. Within 10 business days of the execution of a construction mortgage, including any refinancing thereof, the mortgagor or his agent shall post in a conspicuous place on the jobsite for which the construction funds were secured, the name, address and telephone number of the institution providing the construction funds.

II. Any person entitled to a lien pursuant to RSA 447:2-7, shall within 15 business days of the posting required in paragraph I or of commencing to furnish services, materials, supplies or other things, whichever is later, provide written notice to the institution providing the construction funds that such person is furnishing services, materials, supplies or other things. The written notice provided under this paragraph shall include the name and address of the jobsite. Failure to provide the notice required by this paragraph shall not alone invalidate the lien created by RSA 447:2-7.

III. At least 48 hours prior to requesting any construction mortgage requisition, the mortgagor or his agent shall post in a conspicuous place on the jobsite for which the construction funds were secured, the anticipated funding date for said requisition. The mortgagee shall require a copy of said notice, which shall be certified as to its posting by the mortgagor or his agent prior to disbursing any funds.

IV. In the event that a written contract between the mortgagor or his agent and any person furnishing services, materials, supplies or other things shall provide that the disbursement of construction funds, a portion of which are intended to pay such person, shall be by a 2-party check, the mortgagor or his agent shall transmit a copy of such agreement to the mortgagee. Upon receipt of a copy of such written agreement, the mortgagee shall subsequently disburse funds intended in part to pay any such person only by a check made payable to the mortgagor or his agent and such person. Unless otherwise agreed by the mortgagor and mortgagee, disbursements shall be made only for actual work completed and materials consumed on the jobsite for which the construction funds were secured.



4 Effective Date. This act shall take effect January 1, 1992.

Amendment Adopted.

Ordered To Third Reading.

**SB 116-FN**, requiring installers of water treatment equipment to be licensed as pump installers. Executive Departments committee. Inexpedient To Legislate. Senator Humphrey for the committee.

**SENATOR HUMPHREY:** The committee's consensus was that no substantial threat to public health and welfare exist, with respect to the installation of water purification treatment and therefore the proposal to license installers of this kind of equipment is superfluous and unnecessary.

Committee Report Adopted.

**SB 153**, an act relative to licensing of pharmacists. Executive Departments committee. Ought To Pass With Amendment. Senator Fraser for the committee.

**SENATOR FRASER:** This is the last time that you are going to have to listen to me today. Mr. President, this legislation is an effort on the part of the Executive Department committee to right an injustice done to one of our citizens. A gentlemen by the name of Francis McNeil. What happened, Mr. President, was that Mr. McNeil was originally licensed as a pharmacist in New Hampshire in 1969 and for personal reasons surrendered his license in 1982 as he commenced practicing at a federal facility, I believe in the state of Maine, but I'm not sure. It just so happens that the board of registration might of erred in granting him a license in 1969, because he lacked the necessary educational requirements in that he didn't graduate from accredited school of pharmacy. By the way Mr. President, members of the Senate, that school is now accredited. At any rate it is quite apparent that during the ensuing years Mr. McNeil had a very productive and distinguished career in the field of pharmacy. At various times he served on the board of the technical colleges, seven years on the allied health services at the Voc tech in Portsmouth, he worked for the U.S. Government facility, he taught pharmacology, he was chief of pharmacy at the Wentworth-Douglass Hospital; however, Mr. McNeil went to apply for this license in New Hampshire and he was denied in the middle 80's based on the fact that he hadn't graduated from accredited school of pharmacy back in 1969. Mr. McNeil's testimony clearly showed that he exhausted all of his remedies and his last hope was the general court. The amendment, Mr. President, my colleagues in the House and the Senate, can only address Mr. McNeil and on behalf of the entire committee, I



urge its adoption. As I understand it Mr. President, the language that's in the amendment was agreed upon by the board of registration.

### **Amendment to SB 153**

Amend the bill by replacing all after the enacting clause with the following:

1 Relicensure Permitted. Amend RSA 318:18-a to read as follows:  
318:18-a Prior Registration.

**I.** Any person registered as a pharmacist in this state on January 1, 1977, shall have all the rights granted to pharmacists under this chapter, as long as such person complies with the licensing requirements of this chapter.

**II.** Any person not currently licensed in this state who has graduated from an unaccredited school or college of pharmacy prior to July 1, 1952, and who has previously been licensed to practice pharmacy in this state shall have all the rights granted to pharmacists under this chapter, as long as such person complies with all other licensing requirements of this chapter.

2 Effective Date. This act shall take effect 60 days after its passage.

### **AMENDED ANALYSIS**

This bill permits the relicensure of any person not currently licensed to practice pharmacy in this state, who has been previously licensed in this state, provided all other licensing requirements are met.

Amendment Adopted.

Ordered To Third Reading.

**SB 194**, an act relative to disclosure statements for lobbyists. Executive Departments committee. Interim Study. Senator J. King for the committee.

**SENATOR J. KING:** The committee felt that this should be sent to interim study because the differences of opinions amongst the lobbyists who were told to go out and come back with some kind of agreement and they did, but nobody agreed. So therefore we sent it to interim study and we request that you do the same.

Recess.

Out of recess.

**SENATOR BASS:** Mr. President, I rise in support of the committee recommendation of interim study on this particular bill. I was the sponsor of the lobbying bill and I think that, and I still continue to feel that the lobbying statutes in this state are antiquated, they're

ineffective, and they are in need of review. The problem with this particular bill is that it doesn't deal with the whole problem. It doesn't reflect a thorough investigation of what lobbying practices exist in New Hampshire, what the problems may be and I am looking forward to continuing, we have begun the process of bringing up the issue, we are going to continue to review this over the next 1-½ years and if I'm lucky enough to be reelected to the state Senate, if I choose to run, I look forward to continuing with this issue in 1-½ years. It is a significant issue, people in this state have a right to know, as well as legislators have the right to know what activities are being undertaken by lobbyists. It is fair not only to the process, but also to the lobbyists themselves to have this process reviewed and reformed. I urge the Senates' support of the committee recommendation of interim study.

SB 194, is sent to Interim Study.

**SB 30-FN**, an act relative to insurance coverage for and unfair claim settlement practices concerning chiropractic treatment. Insurance committee. Inexpedient To Legislate. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** I am pleased to report that as a result of the legislative process on this bill this year, Blue Cross, Blue Shield and the chiropractors have come to a voluntary agreement, by which the insurance company will from now on cover chiropractic care and therefore the committee believes that there is no need for further legislation, and we are very pleased that the parties were able to get together on this important bill.

**SENATOR PRESSLY:** I think that the Senate owes, should give a round of applause to Freshmen Senator, Tom Colantuono for his very adept negotiating skills.

Committee Report Adopted.

**SB 109-FN**, an act relative to the date for the collection of taxes in the town of Newmarket. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

**SENATOR BASS:** Mr. President, this bill was introduced by Senator Hollingworth and it basically comes about as a result of the fact that the town of Newmarket has gone from a selectmen system to a town council system and during this process they were unable to meet the deadlines for the March town meeting date to get all their information, notices, and posting, and so forth, and rather than change permanently to a May meeting which would give them an 18 month fiscal year, they are looking to have their town meeting in

May, which is perfectly legal by statute for this time only, not permanently. And that is the reason for this bill. I appreciate your support of the committee recommendation of ought to pass as amended.

### **Amendment to SB 109-FN**

Amend the title of the bill by replacing it with the following:

### **AN ACT**

relative to the time for holding the 1991 Newmarket town meeting.

Amend the bill by replacing all after the enacting clause with the following:

1 Time for Holding 1991 Newmarket Town Meeting. Notwithstanding any provision of law to the contrary, the town of Newmarket is hereby authorized to hold its 1991 annual town meeting on the second Tuesday of May, rather than on the second Tuesday of March.

2 Effective Date. This act shall take effect upon its passage.

### **AMENDED ANALYSIS**

This bill authorizes the town of Newmarket to hold its 1991 annual town meeting in May rather than in March.

Amendment Adopted.

Ordered To Third Reading.

**SB 115-FN**, an act relative to livestock. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: This bill was introduced with the purpose of repealing what we would consider to be obsolete statutes dealing with the municipalities liability to make good on injuries to livestock by domestic animals. It was the feeling of the committee that the problems still exist nowadays and there is some liability on the part of the municipalities to continue to protect the agricultural industry in this particular area. As a result of some work that we did with the Senate counsel, we were able to come up with what is essentially a modernization of the existing statute, substituting harass and injured, for the term worried, which was unclear. And also, requiring that before a farmer applied for restitution from the town that he be required to exhaust other sources such as insurance coverage that may be available to him by the owner of the domestic pet. It's a good bill, we urge your adoption of the committee recommendation of ought to pass as amended.

### **Amendment to SB 115-FN**

Amend the bill by replacing all after the enacting clause with the following:



1 Injury to Livestock. Amend RSA 466:21 to read as follows:

466:21 Liability of Towns or Cities. Any person whose [sheep, lambs, fowls or other domestic creatures are] **livestock, as defined in RSA 427:33, II, is killed[, driven away, wounded or worried by] , harassed, injured, or lost because of** dogs may recover of the town or city wherein such damage was done, in the manner [herein] provided **by this subdivision**, the amount of all damage thereby sustained by him, including the value of any creature so killed or lost, any depreciation in value of a creature so [wounded or worried] **injured or harassed**, and any other loss or expense to which he may be subjected by such killing, [driving, wounding or worrying] **harassment, injury, or loss.**

2 Procedure to Enforce. Amend RSA 466:22 to read as follows:

466:22 Procedure to Enforce. Any person entitled to recover under RSA 466:21 may present a statement of such damage to one of the selectmen of a town, or to the clerk, mayor or one of the aldermen of a city, and the selectmen or board of mayor and aldermen shall thereupon make such investigation as they deem necessary to determine whether the damage was occasioned by dogs and the amount thereof if so occasioned. If they are of opinion that the damage was so occasioned **and that adequate recovery is not available from the owner of the dog or through insurance coverage**, they shall award the claimant the amount of his damages as found by them, and forthwith notify him of their award, and at the expiration of 60 days from such notice, if no action has been brought as hereinafter provided, they shall cause an order to be drawn in his favor upon the town or city treasurer for the amount so awarded. If they are of opinion that the damage was not so occasioned **or that adequate recovery is available from the owner of the dog or through insurance coverage**, they shall forthwith notify the claimant of the disallowance of the claim. In the absence or sickness of the mayor, it shall be the duty of any one of the aldermen of the city, who may be duly informed of damage supposed to have been done by dogs, to discharge forthwith the duties imposed by this section upon the mayor.

3 Remedies. RSA 466:27 is repealed and reenacted to read as follows:

466:27 Remedies. As a condition precedent to recovery under this subdivision, the owner of livestock, as defined in RSA 427:33, II, injured, harassed, killed, or lost because of dogs shall make reasonable efforts to locate and obtain recovery from the owner of the dog or to recover under applicable insurance coverage.

4 Killing Dogs. Amend RSA 466:28 to read as follows:

466:28 Killing Dogs Legalized. Any person may kill a dog that suddenly assaults him while he is peaceably walking or riding without the enclosure of its owner or keeper; and any person may kill a dog

that is found out of the enclosure or immediate care of its owner or keeper [worrying, wounding] **injuring, harassing**, or killing [neat cattle, sheep or other domestic animals] **livestock, as defined in RSA 427:33, II.**

5 Repeal. RSA 466:26, relative to recovery by the municipality from the dog owner, is repealed.

6 Effective Date. This act shall take effect January 1, 1992.

### AMENDED ANALYSIS

This bill limits the liability of towns and cities for injuries done to other animals by dogs. The bill limits municipal liability to damage to livestock for which the livestock owner has no other reasonable means of recovery.

Amendment Adopted.

Ordered To Third Reading.

**SB 229**, an act relative to a Martin Luther King Human Rights Day. Public Affairs committee. Ought To Pass. Senator W. King for the committee.

SENATOR W. KING: The committee recommends that on SB 229, that it ought to pass, naming the third Monday in January, Martin Luther King Human Rights Day in recognition of the most important leader of the American Civil Rights movement, whose message of equality and justice for all people has echoed through the years and inspired people of all ages in all countries, from the New York Islands to the California waters, and from the Philippines to Eastern Europe.

SENATOR MCLANE: I think at a time when 22 percent of our forces in the Gulf were black people that this is a fine time for the state of New Hampshire to be honoring one of their leaders, but I did want to point out that Martin Luther King Day is not exclusively a day for blacks. It is a day when all of us think of human rights and of the heritage of this great country of ours. I think that a glance at the sponsors of this legislation will prove to you the diversity of people who care about this issue. We have women and men, we have republicans and we have democrats, we have the two blacks in the House, we have Jewish people, we have a couple of Frenchmen, we have a handicapped person, and we have done our best to get the variety and the sponsors that symbolize the importance of this day.

SENATOR DISNARD: I wish to make it clear I am speaking as a Senator from District 8, not representing any other position. The vast majority of the people that contacted me in my district re-



quested that I not vote for the Martin Luther King Day for these two reasons: The people of my area are very traditional and very patriotic. I learned today from the Department of Education that out of 160 some odd school districts, 112 of these held school on President's Day. What does that tell us. Also, I wish to call your attention to Memorial Day. Memorial Day by statute must be observed by the public schools on May 30. In excess of 11 of our public schools there might have been many more opened on May 30, held school in defiance of the state statutes. For that reason, the people of my area who are very patriotic wish to have these two days honored before an additional day is established in this manner.

SENATOR HOUGH: I rise in support of this piece of legislation and I am very happy and proud to be one of the co-sponsors of this legislation. My support in co-sponsorship and my vote for this legislation is unique in a sense that over the number of years that I've been in this legislature, I've always tried to come to a position in terms of consensus on the one hand and what is right on the other. And while I feel that my position is consistent, I come to my support from a very personal and albeit, perhaps selfish perspective. It has been my life's experience to graduate from secondary school in 1961. And then I entered four years of college, and that was my experience. And though I was a student from New Hampshire, I was an American in the early 60's. And it is my experience and my recollection in my memory to have been caught up with a number of people my age in a common experience centered around the Civil Rights movement. I recall in the 60's where I believe, an episcopal clergyman from Keene, New Hampshire was murdered in the south. It was part of my student experience in the early 60's to come to understand what the question was and to follow the dreams of Reverend Martin Luther King. So I feel very personally involved with this issue. I am glad to support it as I have supported it in the past. It is correct for New Hampshire to speak with a voice consistent with the nation. The first half of the 60's was a very positive period of time, Doctor King was part of that. And no matter who you are, that period of time separates those who had experiences before that and those that came later. There is no question that that is the period of time that divides the generations and divides the century. As I support this with an understanding of my experiences in the first half of the 60's, I know that the time is right for New Hampshire to pass this legislation.

SENATOR HUMPHREY: Mr. President, like Senator Hough, when I consider this bill, I too think back to earlier days in my life. I recall being stationed in the military in the southern part of the United States in the late 1950's when racial discrimination was not only



widespread and pervasive, but was expected, it was the status quo, it was scarcely challenged. And I can remember my surprise and disgust on being in that atmosphere and seeing separate doors for people depending upon their race. A door for white people, a door for black people, and separate drinking fountains, and separate places to get a hot dog at the same institution. I remember those days. I also remember a day, a very hot day in 1963 in Washington, D.C., and a huge throng of people spread out on the malls and among the speakers, Doctor Martin Luther King, who on that occasion as we know delivered that now famous speech in which he often repeated the expression "I have a dream, I have a dream", and one of the proud moments of my life was to be there in support of that demonstration. That demonstration against the violation of human rights. Martin Luther King was a complex man, he was a man who overcame racial discrimination, secured a fine education, became a leader in his community and throughout the nation and ultimately, a man renown internationally. He was a complex man like all the rest. He had his strength and he had his weaknesses. He said some things which I think are indefensible and which raise questions about his judgment. He did some things evidently in private that none of us would approve of, but I think the same thing can be said about many public officials, including contemporary Presidents of the United States, in connection with the White House, need I be more explicit. Mr. President, the history of the United States is the history of the triumph of justice over injustice. The history of this gem of the oceans is the history of the securing of human rights in place of the violation of those rights. Martin Luther King, whatever his weaknesses might have been, was the leader of one of the most important human rights struggles in our nation's history. Who can doubt that it would have taken perhaps decades longer to secure equal rights under the law for black citizens had it not been for the leadership of Martin Luther King, notwithstanding his weaknesses. And so I'm going to support this bill, Mr. President, for that reason. I believe that Martin Luther King was a great American. That he led one of the most important human rights crusades in the history of the world, not that he was without flaws, but which of our heros are without flaws, Mr. President. I think the time has come to honor this man and to honor the idea for which he strove and ultimately, gave his life and that is that every human being, irrespective of cult or of any other worldly distinction is a human being who ought to be respected, who's rights under the law ought to be protected. And I have every confidence that the history of the United States will continue in this vein. That we will continue to break down these artifi-

cial barriers, these discriminatory barriers and that we will uphold the rights of all human beings, including may I say, ultimately, the rights of unborn beings.

SENATOR BLAISDELL: That is a pretty hard act to follow, Senator Humphrey. That is an excellent speech and I commend you for it. I stood on this floor on the last session of the legislature and voted for the Martin Luther King holiday and I told you why. I re-visited a couple of schools in Swanzey, New Hampshire and I talked to those students again. If you remember, I told you that I was all prepared when I was going to speak to these fourth and fifth graders to bring my chart of what the state flower was and the state rock, and just everything else, the state fish and the very first question that was asked of me by a little fourth grade girl was, Senator, what are you doing about teenage pregnancies? And the next one was, why are you opposed to a bottle bill, but the third question that they debated with me, not debated, but spoke to me about was the Martin Luther King holiday. And I kind of joked with them a little and I'm sorry that I did in a sense, because I was really taken to task, and I said you just want another day off and you know . . . Well let me tell you, those fourth and fifth graders took me on pretty heavy and they gave me some excellent reasons, many of which Senator Humphrey just mentioned. So I guess as I looked at those beautiful faces and I could see in their faces that discrimination was not a part of their life and would not be. I was very proud of those kids, so for those students at Cutlas School in Swanzey, my vote will be for the Martin Luther King holiday and I'm sure if I went to the other schools and mentioned it, that they would say the same thing, so I would ask your support for Senator King.

SENATOR CURRIER: I rise in support of the bill. I really prefer the bill that I believe is coming from the House, but in fairness to probably a committee of conference that might be worked out on this whole issue and get it settled, once and for all, I will in fact support this bill.

SENATOR DELAHUNTY: Senator McLane, I too rise in support of this proposal and certainly commend Senator Humphrey on his fine presentation, but I would also like to ask you, would you believe that there are some members of the Senate body that will possibly be voting against your proposal because they may prefer the House version as opposed to your legislation?

SENATOR MCLANE: We do not plan to call for a roll call on this vote and I think that that is an issue that will be worked out, but I do think that the mood and the tenor of the excellent speeches that we



have today, show that the majority of the Senate feels that the man we honor is the symbol of the issue that we honor.

A roll call is requested.

Recess.

Out of recess.

Roll call request was withdrawn.

Adopted.

Ordered To Third Reading.

**SB 199-FN**, an act relative to abused and neglected children. Public Institutions, Health and Human Services committee. Inexpedient To Legislate. Senator Bass for the committee.

SENATOR BASS: Mr. President, this was a bill that was developed last year by the division. There are new personnel in the division now, there is a new policy being discussed, and it was the feeling on the part of the committee that this issue really ought to be deferred until 1993. So we urge your support of the committee recommendation of inexpedient to legislate.

Committee Report Adopted.

**SB 132-FN**, an act relative to monitoring licensed nuclear power plants.

Public Affairs committee. Inexpedient To Legislate For The Majority. Senator Delahunty for the Majority. Ought To Pass With Amendment For The Minority. Senator Cohen for the Minority.

SENATOR DELAHUNTY: Because an agreement has been worked out and a compromise amendment, a floor amendment is going to be offered, we would like to ask the Senate body to defeat the floor amendment of inexpedient to legislate and then we will offer a floor amendment.

#### **Amendment to SB 132-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to an early warning system for monitoring  
licensed nuclear power plants.

Amend the bill by replacing all after the enacting clause with the following:



1 New Chapter; Early Warning Monitoring of Nuclear Power Plant Operation. Amend RSA by inserting after chapter 362-B following new chapter:

## CHAPTER 362-C

### EARLY WARNING MONITORING OF NUCLEAR POWER PLANT OPERATION

362-C:1 Definitions. In this chapter:

I. "Commission" means the public utilities commission.

II. "Division" means the division of public health services, department of health and human services.

III. "Gross monitoring" means a general activity count of radioactive emissions which is not broken down by isotope.

IV. "Isotopic monitoring" means quantifying the gaseous radioactive emissions in terms of the release of various isotopes.

V. "Nuclear plan area" means an area within a 10-mile radius of a nuclear power plant.

362-C:2 Monitoring.

I. Each nuclear power plant which operates at full power in the state shall develop a program to provide an early warning system to monitor the operation of the plant. This program shall be administered by the division of public health services. The purpose of the program shall be:

(a) To provide early warning to citizens of the state in case of an accidental release from a nuclear power plant in order for appropriate action to be taken as quickly as possible; and

(b) To provide verification of utility analyses of nuclear power plant releases to the environment.

II. The program established in paragraph I shall include, but not be limited to:

(a) A realtime or near-realtime isotopic monitor to measure the type and quantity of gaseous emissions from the main power plant stack or vent pipe.

(b) Monitors to measure the liquid radioactive effluent at each liquid release point.

(c) At least 16 remote, effluent monitors placed with consideration to local geography and meteorology to detect radioactive airborne emissions and instantaneously transmit such data to the department.

(d) A dedicated data link with access to all data points determined necessary by the state to assure public safety. These points shall be limited to those points normally monitored by the nuclear power plant computer as well as the points enumerated in this paragraph.

(e) The review and examination by the division of all data collected under subparagraphs (a)-(d). The division shall designate a telephone number to which public inquiries regarding the program may be directed.

III. With regard to nuclear power plants located outside the state that are allowed to operate, whose nuclear power plant areas include communities located within the state, there shall be sufficient remote, effluent monitors within each nuclear power plant area of the state within 3 months of the effective date of this section, placed with consideration to local geography and meteorology to detect elevated radioactive airborne emissions and to transmit instantaneously this data to a central state office. Gaseous effluent monitors shall be placed within each nuclear power plant area of the state within 6 months of the effective date of this section.

362-C:3 Costs.

I. The commission shall assess the operators of nuclear power plants located in the state for the capital expenditure, personnel, and operation and maintenance costs of monitoring nuclear power plants in accordance with RSA 362-C:2.

II. The division shall determine the amount of annual assessment to be charged nuclear power plant operators for the operation and maintenance of the monitoring program established by RSA 362-C:2, including equipment, personnel, services, and related expenses, and report annually, by April 1, to the commission. The commission shall develop an equitable method of apportioning this assessment among the nuclear power plant operators. These assessments shall be deposited into an account administered by the commission and may be expended by the commission for equipment, personnel, services, and related expenses to monitor and inspect nuclear power plants and to conduct surveys and related projects.

III. The division shall submit its share of the costs for implementing the program established under this chapter to the commission. Such costs shall be included in the assessment levied under paragraph I and shall be reimbursed to the division.

IV. With regard to nuclear power plants located outside the state that are allowed to operate, whose nuclear power plant areas include communities located within the state, the commission shall assess the New Hampshire utilities which own such plants in whole or in part, or which purchase power from such plants, for the capital expenditure, personnel, and operation and maintenance costs of monitoring these plants in accordance with RSA 362-C:2.

2 Hiring Authorized. The division is authorized to hire a health physicist II and a computer operator III to review and examine the data collected under RSA 362-C:2, II(a)-(d) as inserted by section 1 of this act. The division of personnel, department of administrative



services, shall establish the labor grades of these personnel positions after consultation with the division.

3 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill establishes a nuclear power plant early warning monitoring program to be administered by the public utilities commission and the division of public health services. The program requires any nuclear power plant which operates at full power in the state to implement certain devices to monitor the plant's operation, including types and quantities of radioactive wastes and emissions generated by the plant. Certain monitors must be activated within 3 and 6 months of the effective date of the bill.

The bill authorizes the division to hire a health physicist II and a computer operator III to review and examine the data collected through the monitoring program.

The costs for implementing the monitoring program shall be calculated by the commission and borne by nuclear power plants, except that the division's share of the costs of the program shall be borne by the commission and reimbursed to the division.

Committee Amendment Fails.

SENATOR DELAHUNTY: You should have before you floor amendment #2179L which is an agreed upon amendment by all principals involved and sets up a committee to study an early warning system for the monitoring of the licensed nuclear power plants. I think that the amendment is pretty self-explanatory, the make-up of the committee is listed here before you and the effective date is immediately upon passage. This compromise legislation was agreed upon about two hours ago with all parties involved, and I urge your support of the floor amendment being proposed.

Senator Delahunty offered a floor amendment.

### Floor Amendment to SB 132-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

establishing a committee to study an early warning system  
for monitoring licensed nuclear power plants.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee Established.



I. There is hereby established a committee which shall study and consider legislation relative to an early warning system for monitoring licensed nuclear power plants.

II. The report of the committee and any recommended legislation shall be filed with the president of the senate and the speaker of the house of representatives prior to the deadline for filing legislation for the 1992 session of the general court.

III. The membership of the committee shall be comprised of the following:

(a) Two members of the senate, appointed by the senate president.

(b) Two members of the house of representatives, appointed by the speaker of the house.

(c) One member representing Seabrook station, appointed by the owner of the facility.

(d) One member of the division of public health services, appointed by the commissioner of the department of health and human services.

(e) One member of the department of environmental services, appointed by the commissioner of the department of environmental services.

(f) One member of the public utilities commission, appointed by the chairman of the public utilities commission.

(g) One member of the public, appointed by the governor.

2 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study and to recommend legislation regarding an early warning system to monitoring licensed nuclear power plants.

Floor Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

Senator Fraser in the chair.

**SB 196-FN**, an act relative to administrative revocation of motor vehicle licenses of persons under age 21. Transportation committee. Ought To Pass With Amendment. Senator Currier for the committee.

SENATOR CARRIER: This is a bill that we recommitted to committee back on February 12, on the recommendation of Senator Hollingworth and Senator Russman for some word changes that were printed in the calendar at that particular time. The committee has

taken another look at it and the amendment as amended in terms of the phrase that was the problem area is now in the calendar on page 15, and the committee recommends the ought to pass with amendment recommendation.

### **Amendment to SB 196-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Administrative Revocation of Motor Vehicle Licenses of Persons Under Age 21. Amend RSA 265 by inserting after section 94 the following new subdivision:

#### **Administrative Revocation of Motor Vehicle Licenses of Persons Under Age 21**

265:94-a Definition. For the purposes of this subdivision, "person" means any person under 21 years of age.

265:94-b Implied Consent; License Revocation.

I. Any person who drives a vehicle upon the ways of this state shall be deemed to have given consent to the tests specified under RSA 265:84 when a law enforcement officer has reasonable grounds to believe that the person has:

(a) Been driving or in actual physical control of a vehicle upon the ways of this state while under the influence of intoxicating liquor or controlled drugs or while having an alcohol concentration of 0.10 or more; or

(b) Been involved in an accident.

II. Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph I and the test or tests may be administered.

III. Any person requested to submit to a test as provided in paragraphs I and II shall be warned by the law enforcement officer requesting the test that any prior refusal to submit to the test will result in revocation of his license to operate a motor vehicle for 6 months. If the person has had a prior refusal of consent under this subdivision, any subsequent refusal shall result in revocation of his license to operate a motor vehicle for 2 years. Following this warning, if a person under arrest refuses upon the request of a law enforcement officer to submit to a test designated by the law enforcement agency as provided in paragraph I, none shall be given.

IV. If any person refuses testing or submits to a test which discloses an alcohol concentration of 0.10 or more under this subdivision, the law enforcement officer shall submit a sworn report to the department, certifying that the test was requested pursuant to RSA



265:84 and that the person refused to submit to testing or submitted to a test which disclosed an alcohol concentration of 0.10 or more.

V. Upon receipt of the sworn report of a law enforcement officer submitted under paragraph IV, the department shall revoke the driver's license of the person for the periods specified in RSA 265:92.

VI. On behalf of the department, the law enforcement officer submitting the sworn report under paragraph IV shall serve immediate notice of the revocation on the person, and the revocation shall be effective 30 days after the date of service. If the person has a valid license, the officer shall take the driver's license of the person, and issue a temporary license valid for the notice period. The officer shall send the license to the department along with the sworn report under paragraph IV.

VII. In cases where no notice has been served by the law enforcement officer, the department shall give notice as provided in paragraph IV and the revocation shall be effective 30 days after the date of service. If the address shown in the law enforcement officer's report differs from that shown on the department records, the notice shall be mailed to both addresses.

265:94-c Hearing.

I.(a) A revocation of license under RSA 265:94-b shall become effective 30 days after the date of service of the notice of revocation.

(b) Unless the person requests a continuance, the hearing shall be held within 20 days after receipt of a request for a hearing. A record of all hearings shall be made.

(c) Upon such hearing, the department shall rescind its order of revocation or suspension or, if good cause is shown, may modify or reaffirm its order.

(d) At any time prior to the hearing provided in subparagraph (f) of this section, the person may request in writing an administrative review of the order of revocation. Upon receiving the request the department shall review the order, the evidence upon which it is based, including whether the person was driving or in actual physical control of a motor vehicle, and any other material information brought to the attention of the department, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request, the department shall report in writing the results of the review. The availability of the administrative review of the order shall have no effect upon the availability of judicial review as provided under existing federal or state laws.

(e) Any person whose license is revoked under this section may request in writing a hearing. The request shall state the grounds upon which the person seeks to have the revocation rescinded. The filing of the request shall not stay the revocation. The hearing shall be held within 20 days after the filing of the request. The hearing



shall be recorded, and be conducted by the department's designated agent. The hearing may be conducted upon a review of the law enforcement officer's own reports; provided, however, that the person may subpoena the officer. The department may issue subpoenas to compel the attendance of witnesses. The department shall adopt rules, pursuant to RSA 541-A, relative to hearings procedures.

II. The scope of the hearing shall be limited to the issues of:

(a) Whether the law enforcement officer requested the test pursuant to RSA 265:94-b;

(b) Whether the person was warned as required by RSA 265:94-b;

(c) Whether the person was driving or in actual physical control of a motor vehicle;

(d) Whether the person refused to submit to the testing as provided in RSA 265:92; or

(e) Whether a properly administered test or tests disclosed an alcohol concentration of 0.10 or more.

III. The hearing officer shall issue his ruling on the administrative revocation within 5 days of the hearing date.

#### 265:94-d Restoration of Licenses Administratively Revoked.

I. Unless the revocation was for a cause which has been removed, any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be eligible to apply for a new license nor restoration of his nonresident operating privilege until the expiration of:

(a) Six months from the date on which the revoked license was surrendered to and received by the department or from such other date as shall be determined by the department in cases of revocation for a first refusal to submit to a test under the provisions of RSA 265:92;

(b) Six months from the date on which the revoked license was surrendered to and received by the department or from such other date as shall be determined by the department in cases of revocation for submitting to a test disclosing an alcohol concentration of 0.10 or more under the provision of RSA 265:94-b;

(c) Two years from the date on which the revoked license was surrendered to and received by the department or from such other date as shall be determined by the department in cases of revocation for refusing to submit to a chemical test under the provisions of RSA 265:92 or for submitting to a test disclosing an alcohol concentration of 0.10 or more under the provisions of RSA 265:94-b where the person has any prior driving while intoxicated or aggravated driving while intoxicated offense or for any prior refusal of consent or any prior administrative revocation of a motor vehicle license under this

subdivision for submitting to a test disclosing an alcohol concentration of 0.10 or more under the provision of RSA 265:94-b.

II. Following a license revocation under this section or RSA 265:94-b, the department shall not issue a new license or otherwise restore the driving privilege unless and until the person presents evidence satisfactory to the department that it will be reasonably safe to permit the person to drive a motor vehicle upon the highways. No driving privilege may be restored until all applicable reinstatement fees have been paid.

III. Where a license or driving privilege has been revoked under RSA 265:94-b and the person is also convicted on criminal charges arising out of the same event and a revocation has been imposed under RSA 265:94-b, both revocations shall be imposed but the total period of revocations shall not exceed the longer of the 2 revocation periods; provided, however, that any revocation for refusing to submit to a test under the provisions of RSA 265:92 shall not run concurrently with any other penalty imposed under the provisions of this title.

265:94-e Appeal. Any person aggrieved by a decision of the department under RSA 265:94-b, I(d) may appeal the decision in Merrimack County as specified in RSA 263:76.

2 New Subparagraph; Rulemaking. Amend RSA 21-P:14, IV by inserting after subparagraph (n) the following new subparagraph:

(o) Administrative revocation of motor vehicle licenses of persons under 21 years of age, including forms, temporary licenses, and hearings procedures.

3 Administrative Revocation of Motor Vehicle Licenses. Amend the subdivision heading preceding RSA 265:94 to read as follows:

Administrative Revocation of Motor Vehicle  
Licenses [of Persons Under Age 21]

4 Rulemaking. Amend RSA 21-P:14, IV(o) to read as follows:

(o) Administrative revocation of motor vehicle licenses [of persons under 21 years of age], including forms, temporary licenses, and hearings procedures.

5 Implementation; Funding. Notwithstanding the effective date of sections 1-2 of this act, the commissioner of the department of safety or the attorney general may delay implementation of this act if funds adequate for its implementation are not appropriated. If adequate funds are not appropriated, they shall request from the legislative fiscal committee and governor and council authority to transfer from the highway fund such amounts, not otherwise appropriated, as may be required to support the implementation of this act. If such funds are not available or not granted, the commissioner of the depart-



ment of safety or the attorney general may delay the implementation of this act until adequate funds are provided.

6 Purpose of Increase. The purpose of the increase of drivers' license fees contained in section 7 of this act is to provide sufficient funds for the department of safety to establish an on-line imaging system for driver licensing. This system shall enable the department to provide a system for licensing drivers that is more convenient for the public and that ensures greater licensing security.

7 Drivers' License Fees Increased. Amend RSA 263:42, I to read as follows:

I. For each original driver's license and examination or driver's license renewal, other than for a commercial vehicle - [~~\$30~~] **\$32**; for each original commercial driver license and examination or commercial driver license renewal - [~~\$40~~] **\$42**; for each commercial driver license reexamination in a one year period - **\$20**; for each commercial vehicle endorsement, renewal of an endorsement or removal of a restriction - **\$10**. For each original driver's license issued, \$5 shall be credited to the driver training fund established by RSA 263:52. Every license shall expire on the licensee's birthdate in the fourth year following the issuance of such license. No fee collected under this paragraph shall be refunded once an examination has been taken or a license issued, except as provided in RSA 263:43.

8 Special Account Established. All moneys collected as a result of the increase in drivers' license fees as specified in section 7 of this act shall be placed in a special account known as the driver license imaging system account. The commissioner of safety, with the approval of the fiscal committee and governor and council, may expend moneys from this account for the purpose of establishing and implementing an on-line imaging system for driver licensing. All moneys remaining in the account shall lapse to the highway fund on July 1, 1993.

9 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (mm) the following new subparagraph:

(nn) Moneys received by the department of safety for the increase in drivers' license fees as specified in the amendment to RSA 263:42, I, in section 7 of this act, which shall be credited to the driver license imaging system account.

10 Repeal. RSA 265:94-a, relative to the definition of "person", is repealed.

11 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 1992.

II. Sections 3, 4, and 10 of this act shall take effect January 1, 1993.



III. The remainder of this act shall take effect July 1, 1991.

### AMENDED ANALYSIS

The bill establishes procedures for administrative revocation of motor vehicle licenses. The program shall apply in the first year only to persons under 21 years of age and shall apply to all persons effective July 1, 1992. The program covers:

- (a) Implied consent.
- (b) License revocation, suspension, and reinstatement.
- (c) Notification requirements to persons charged under the law.
- (d) Hearing procedures.
- (e) Appeals.
- (f) Rulemaking.

This bill also authorizes the commissioner of the department of safety and the attorney general to transfer highway funds, upon approval of the legislative fiscal committee and governor and council, to support implementation of this act if adequate funds are not otherwise appropriated.

The bill also increases drivers' license fees and establishes a special account for the placement of all moneys collected as a result of the increase in drivers' license fees. The account is for the purpose of establishing and implementing an on-line imaging system for driver licensing. All moneys remaining in the account on July 1, 1993, shall lapse to the highway fund.

Amendment Adopted.

Ordered To Third Reading.

**SB 216-FN**, an act relative to possession of illegal drugs while operating a motor vehicle. Transportation committee. Inexpedient To Legislate. Senator Currier for the committee.

**SENATOR CURRIER**: O.K. excuse me Mr. President, I was a little preoccupied. This bill is covered under other subject matter that the committee has taken up previously and that is the reason for the inexpedient to legislate. It was handled in SB 196.

Committee Report Adopted.

**SB 223**, an act relative to prohibiting the study committee established under 1989 281:1 from considering whether to move or relocate the Dover Toll Plaza. Transportation committee. No Recommendation. Senator Cohen for the committee.

**SENATOR COHEN**: The committee was unable to reach agreement on this and it was unable to make a recommendation as to which way the full Senate ought to vote.

SENATOR SHAHEEN: Actually, what I would like to do, Mr. Chairman, is moved ought to pass on SB 223.

### SUBSTITUTE MOTION

Senator Shaheen moved Ought To Pass.

Adopted.

Ordered To Third Reading.

**SB 189-FN**, an act allowing raffles and games of chance to be conducted at the same place as bingo games. Ways and Means committee. Ought To Pass With Amendment. Senator J. King for the committee.

SENATOR J. KING: At the last session we talked about this bill, 189 and we were just about to pass it until Senator Colantuono and Senator Mary Nelson decided — discovered — a serious mistake in the bill. That has been corrected and all that it does now is allow raffles to be held at the same time, in the same place as bingo. I urge you to go along with the committees ought to pass.

### Amendment to SB 189-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

allowing raffles to be conducted at the  
same place as bingo games.

Amend the bill by replacing all after the enacting clause with the following:

1 Raffles Permitted. Amend RSA 287-E:7, to read as follows:

X. [No raffles or other games of chance] **Raffles** permitted under RSA 287-A and RSA 287-D **may be conducted at the same time and in the same place as a bingo game licensed under this chapter.** [or] No other games of chance, except as provided in RSA 287-A:8 through RSA 287-A:11 and RSA 287-E:16 through RSA 287-E:24, shall be conducted at the same time and in the same place as a bingo game licensed under this chapter.

2 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill allows raffles to be conducted at the same time and in the same place as licensed bingo games. Current law prohibits such raffles, games of chance, and bingo games from being held at the same time and in the same location.

Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

### **MOTION TO TAKE OFF THE TABLE**

Senator Disnard moves to take SB 213-FN-A, an act relative to the distribution of the rooms and meal tax, Off The Table.

Adopted.

SB 213-FN-A, an act relative to the distribution of the meals and rooms tax revenue. Ways and Means committee. Ought to pass with amendment. Senator J. King for the committee.

SENATOR J. KING: I rise in strong support of SB 213-FN-A, probably mainly because I sponsored it, but the bill has to do with revenue sharing and I would like to see some of the revenue sharing restored to what it was, 20-25 years ago. I know it's not a good time to do it, but this bill does not effect the current biennium, nor the next biennium. The action takes place 1994, in July. So it isn't going to effect the crunch that we are in at the present time. As you all know that bill, that rooms and meals tax when it started out was based on a 60-40. Sixty percent of the income went to the state, and 40 percent went to the cities and towns. From 1977 to 1983 that was changed considerably. At first they cut it down from 40 percent to 33-1/3 percent, and the next change a few years later was down from that to 3/14 of it went back to the cities and the towns and then in 1983 they put it under an RSA and they gave to the cities and towns and froze it at that level and that is part of the formula for that. Seventy-five percent of what your 1976 distribution was to the cities and towns. That amounted to \$4,000,100 and some odd thousand dollars going back to the cities and towns. The distribution, or the total received during 1990 was \$82,000,000 plus. The total that went back to the cities and towns was \$4,000,100 plus, nowhere near the 40 percent, it's close to 5 percent. If that was still in effect, \$28,000,000 more would have gone back to the cities and towns this year that isn't there now. That is done and gone. Hopefully, we can change that so that eventually we can get back to the same formula. It's not going to get done in one year, it's not going to be done in two years, it's done on a very gradual basis. Let me explain how SB 213, plans to do that if it is passed. The current distribution stays right as it is until 1994. In 1994 if there is an increase over the previous year, either 75 percent of that or \$2,000,000, but the maximum is \$2,000,000. If we got \$8,000,000 that year, then you would be limited



to 2 million. If you got \$1,000,000 then you would only get 75 percent of that 1 million, and that would be added to the previous year. In 1995 the same 75 percent, and it goes to 3 million as the maximum, and from 95 on, until you reached the 40-60 level, it's either 75 percent with a maximum of \$5,000,000. If there is no increase during that year, there is no increase to the cities and towns. The only way that we are going to get back to that level is if the state makes enough money in the rooms and meals tax. It does not affect the \$78,000,000 that is in there now. This is a gradual increase, and as I said, if there is no increase each year, there is no increase in the amount to the cities and towns. As I said, at the best it could take 12-14 years depending what the increases are, it could go up to 20 or more, but eventually you would get up to 40-60 and when it gets there, that's where it hangs. Thank you very much.

SENATOR HEATH: Senator King, I understand that this changes the percentage of the revenues that are distributed, does this change the way that it's distributed by population?

SENATOR J. KING: It changes from 31a because that has its own format. There are four taxes in there. This withdraws the room and meals tax from 31a and sets up its own entity as it had been in the beginning and follows the same formula, 40-60 per person, it's distributed on a per person basis.

SENATOR HEATH: How is it currently distributed, what is the formula for distribution?

SENATOR J. KING: It's one of those with the equalizations, 75 percent of 1976, whatever you got that year, you get 75 percent of that and even that is equalized on something similar to (TAPE INAUDIBLE).

SENATOR HEATH: Then if a district had a higher per capita of amount of revenue from this tax than Manchester, this essentially is changing the formulation would move some revenues out of that district, or if they had a higher property value than Manchester per capita, then it would be moving some revenues even if the percentage didn't change, which of course it does, but it would be moving revenues out of those towns and into the city of Manchester, am I correct?

SENATOR J. KING: It would with the \$4,000,000, in which would probably be smaller amounts, but as the years progress and the formula, this formula, started going into effect, those that lost a few dollars in the beginning would gain each year that the thing is in existence.

SENATOR HEATH: This essentially then, because of the change in the formula, not the percentage, setting that question aside for the time being, would be moving revenues out of the small towns, to the heavy populated areas like Manchester?

SENATOR J. KING: No, it wouldn't in this thing. It would probably be adding revenues to them, because right now they have it frozen at a certain amount and you don't go above that amount unless they appropriated it out of that amount. But basically, now the amount of money that they use is 75 percent of the 1976 distribution and that amounts to \$4,000,177. That's what they use to distribute the amount. They have their business profits tax, they froze that up in 1982, they have the interest and dividends tax, they froze that up in 1981, they have gone right down the line. Those are all in together. You take this one out and you start with that same \$4,000,177 and you do it on a person basis, and as the years go by and it increases, everybody will get more than they are getting under the present system and that is the purpose of it.

SENATOR HEATH: Of the new revenues that may come to towns and cities through this formula, it would be proportionately weighted towards Manchester, am I not correct, by going to population?

SENATOR J. KING: It certainly would be. Manchester, Nashua, whatever it may be. And expenses in the town are proportionate too.

SENATOR PRESSLY: I rise in support of this legislation and I think it is an effort to return some funds to the cities and towns that are sorely needed. I trust and hope that they, the body will approve this.

SENATOR HOUGH: I have to be against this piece of legislation. I'm surprised that the old basketball official hasn't jumped up and called time out. I respect what you are attempting to do, Senator King, but if I am correct the state will end up with less revenue. There is talk in these halls of taking general revenue sharing away from the cities and towns. Now I think that we have to start being sensible around here, it's all well and good to talk about what we mandate, and pledge that we won't do it, and it's all well and good to enhance existing levels of revenue that the state has and skewered it back to the locals, but you have to understand some things: There are responsibilities that the state has, there are responsibilities that the state has legally and financially and even morally in the area of court ordered placement of new juveniles, in developmental disabilities, in mental retardation, in corrections. That is only the beginning. But whether we continue to enhance and support community



based programs, these people are our clients. When I say our clients, I mean they are state government's responsibility. This is not the time to be entertaining any type of shifting of revenue and I respect that we are talking prospectively in the biennium, we are going to leapfrog a biennium, and I appreciate that. Senator King, and Senator Nelson, and Senator Pressly indicated that they are all in support of that, which leads me to question whether this might impact the larger urban cities as opposed to the north country vacation travel industry. But before we even address that question, the state is going to ultimately end up with less and, by god we need it, we can't afford to be giving it away and not knowing what we are doing.

SENATOR NELSON: Senator King, in what year would this go into effect?

SENATOR J. KING: 1994, the middle of 1994.

SENATOR NELSON: What is the bad thing that will happen to the north country, what is the bad thing that will happen to Laconia, what is the bad thing that will happen to Moultonborough, and those towns up there that are getting money now? Thank you, Mr. President.

SENATOR J. KING: I would start by saying that in 1982 or 81 when they put in 31a, there wasn't too much response at that time from the larger cities, and the main thing is that those cities and towns and those others are going to do better by this. I personally think that if the state wants programs, they shouldn't take the money from the cities and towns that help pass that legislation which is what happened here. That legislation would probably never have gone through if it was at a 40-60 percent, that was an initiative to get that legislation through. If the state takes that money away from the cities and towns and they plan on it, that means that somehow other, that local has got to do something about it and you end up that it is the property tax that's going to get it. This is to become effective 1994, it doesn't change going back to the cities and towns, unless there is an increase in that revenue during that year. I can see no reason why everybody shouldn't go along with it. I know that you are all concerned about your towns, and you're all concerned about revenue sharing. Let's reverse it, and this isn't the only one, there's a bunch of them. Let's reverse and go back to what we had done 25 years ago when the times were really tough.

SENATOR NELSON: Senator King, would you believe that in these tough times, would you believe that a person like you should be commended for trying to find creative solutions to difficult problems and for trying to put a solution in, a couple of years down the road?



SENATOR J. KING: I also want to add, because there is a threat of 51.4 million which six years ago or so was \$56,000,000 because now there is a threat that they are going to take it away from you, does not stop me from trying to put this legislation in and it's a good indication that from now on we should watch it and make sure that the same thing doesn't happen and start back on the road to recovery by doing this and passing this bill.

SENATOR DISNARD: Senator Hough, would you believe, as I review the fiscal note which legislative services attributes to the treasurer, that it does not indicate less monies to the general fund under SB 213. It shows with growth, the additional monies each year to the general fund?

SENATOR HOUGH: Well I have just taken the time to look at the fiscal note and I'm not going to get into a debate with the treasurer, but I will tell you that I don't see it that way and I think ultimately, you're going to see further erosion of state revenue and clearly we should be very, very careful about entering into any of that activity. I'm not sure as I understand the dynamics of why Senators Nelson, Pressly, and J. King are supporting it versus the balance of the locals, but before you even address that George, no way, no way.

SENATOR DISNARD: Thank you.

SENATOR W. KING: First of all for the record, I would like to make sure that all the remarks attributed to Senator King, prior to my standing up today, are attributed to Senator John King, because this is one of those classic battles, folks, that doesn't break down on ideological lines or party lines, but instead on rural versus urban. Senator King, my esteemed cousin from the south, I apologize to you because I thought that this merely dealt with the issue of returning money back to the cities and towns that was rightfully theirs since the beginning of this process of the rooms and meals tax. However, what this bill contains is a change in the formula, and that is the real issue here. The change in the formula that says to the north country that I represent, and that Senator Oleson represents, and who is already the stepchild of New Hampshire, that we can continue to be the vacation grounds for the rest of the state and for other places, we can continue to raise those monies from room and meals taxes that will support the state of New Hampshire, but we have to send that money down to Manchester and Nashua and other larger cities. That is not an acceptable solution to the problem. Now, it's easy to be against a broad base tax, Senator King, if you're going to take the money from the little towns and bring it to your own anyway, but we are going to have to address the tax problem in the state of New Hampshire if we are going to bring equity throughout the state.

This bill will take money from small communities all over the state of New Hampshire and I'm not just talking about the little communities in the north country. It will take money from those communities and feed it into the cities in the southern tier of the state and for that reason I have to oppose it.

SENATOR OLESON: I have to arise in opposition to the bill that is pending. And one of the reasons why, if you can bear with me, is that when we attract tourist in the state of New Hampshire, they do not come in here to look at filling stations and hot dog stands and paved roads, they come in here to enjoy themselves in the forest and in our fields that we have kept so well in the north country. I can refer back to my small town of 3,000, we have some twenty-nine unincorporated townships in the state of New Hampshire, twenty-seven of them happen to be in my district. We furnish the service for the fire engine, and the police, and etc. to the people in this area. Even search and rescue, now I understand that this comes back on a numerator on a population basis. Well I'm awful glad to see that it is recognized that we do want to incorporate townships, and in some of these unincorporated townships there might only be two people there, so I imagine that they might pick up another 25-30 cents under the bill the way I happen to read it. I still look on it as a bill and I'll say again, it's the northern part of the state which we represent to a certain extent that do attract people, our apologies to the coastal people, they do attract the people into the state of New Hampshire, and when they're up here, they do enhance our room and meals tax. I think on that perceptive basis we generate many, many, many times over to the contributions to the room and meals tax than any other section in this state. I think that the present formula as I understand it, should be kept in place until I understand that this formula does not change the reimbursement back to our smaller towns. For that reason Mr. President, I will have to vote against the passage of this legislation. Thank you.

SENATOR J. KING: Senator King, do you know, you say that we are taking money from the north country, do you know what the difference is between the sale of the rooms and meals tax contributed from Hillsboro county and from Coos county?

SENATOR W. KING: I know that 60 percent of the room and meals tax revenues come from the northern three counties.

SENATOR J. KING: Well I must be looking at different papers than you do, and now as soon as I get them I'll show you that I think that you're wrong. The two counties that contributed the most out of the rooms and meal tax, Hillsborough first, Rockingham second.



SENATOR HOLLINGWORTH: Senator King, when I listened to the discussion on your bill, it was clear to me that it looked like if there was a \$20,000,000 increase in rooms and meals that the communities could benefit considerably, is that true under your formula, under this bill?

SENATOR J. KING: If there is a \$20,000,000?

SENATOR HOLLINGWORTH: Yes.

SENATOR J. KING: No, because all they can get out of that one year, if there is \$20,000,000 in one year, they would get 75 percent of that or \$2,000,000, whichever is the least amount. And then it goes up to \$5,000,000. So it isn't that the state doesn't get its share, or that the locals don't get their share of it.

SENATOR HOLLINGWORTH: Then at what level is it that the communities would benefit and the state would benefit, for the room and meals?

SENATOR J. KING: Each year depending on if there is increases, both would benefit by it. And this isn't something new. They talk about taking away from the north country. When this bill was originally passed, the formula was 60-40. The formula was different when it was the BPT tax, the formula was different when it was interest and dividends, the formula was different from sweepstakes. All of those formulas that are now saying Manchester is taking it away from them. The original formula was 40-60. All I want to do is put it back to the genius that figured that out 26 years ago.

SENATOR NELSON: Senator King, do you happen to know how much sweepstakes tickets are being bought in the Hillsborough county, would you say that they are paying any money down there on sweepstakes tickets?

SENATOR J. KING: I would say quite a bit. About 12 to 13 percent of the money is sold down, out of that county.

SENATOR NELSON: Thank you, sir.

Senator Russman moved the question.

Adopted.

A Roll Call has been requested.

Roll call was withdrawn.

Senator W. King moved to have SB 213-FN, Laid On The Table.

Adopted.



SB 213-FN, IS LAID ON THE TABLE.

Recess.

Out of recess.

PRESIDENT DUPONT: Where we are at the present time is what I would like to explain. As we have gone back and forth, and I apologize for keeping you all here this late under the expectation that the House would remain in and also deal with this this afternoon so that we wouldn't be burdened with it as we start next weeks work. The debate this afternoon primarily sent it over, whether or not it was appropriate for the Senate to rebate \$5,000,000 in the next biennium of business profits tax that would have been collected at the 9 percent level. There is a proposal on the table now for the committee of conference that would leave the BPT at 8 percent, but speed up the collections so that we get an additional \$5,000,000 in this biennium, before June 30, but then we would subsequently, collect 5 million less in the next biennium. So, although the House objected to doing, by the credit, they will accept doing it by the speeding up of the tax collection, so we in essence collect the 5 million this year, but the net result is the same, but the BPT stays at the 8 percent rate. The conferees have indicated to me that they are willing to do that; however, Senator Russman, who is not in state at the present time was one of the conferees for the Senate, so I have removed him and have substituted myself as a conferee, although he did give me his approval to sign on the existing Senate version that was agreed upon by the Senate yesterday, I did not get carte blanche from Senator Russman, so that's the way that I would like to deal with that. The second set of changes is the House is unwilling to go along with our voluntary furlough program, therefore, there is a need to replace the voluntary furlough program with some other items, and I will briefly tell you that the items are an additional \$100,000 of capital improvements that were paid for in cash that are bonded. The Senate version originally had 4.3 million of recaptures, things that we had paid cash for in previous years that were legitimately items that could be bonded, so we are going back in and remortgaging 4.4 million of capital improvements, rather than 4.3. That is \$100,000. The other \$650,000 is a revenue increase for a federal reimbursement for board and care, that was the big item that the Senate had the benefit of, of about \$6,000,000, Ralph, originally? Don Shumway has gone through all of the cost centers at the state hospital, and by shifting some expenditures to different centers, the federal government will reimburse us another \$550,000. It is a legitimate entry and he has their approval to do so. The other \$100,000 is a result of a settlement that the federal government has reached with a nursing care provider that was in the paper a couple of days ago for \$257,000 that

required to be reimbursed to the federal government, \$100,000 of that is our share. That brings us to the \$750,000 figure which we had carried for furloughs in the Senate budget. And that is the extent of the changes on HB 50. One hundred thousand dollars in additional bonding, 650,000 increase in the revenue figures to accomodate the increase in board and care reimbursements, which are carried as revenues. The second change would be that 593 would simply state the fact that there is a 30-35 percent change in the collection percentages by quarter, for the first two quarters. So we have a choice before us at the present time. We are waiting for the drafting of the committee of conference reports. What I would like to do is get the committee of conference reports adopted this afternoon, and the Senate would come in next week and not go into session till such time that the House has adopted these two committee of conference reports.

SENATOR DISNARD: I have a question because I'm not too familiar with the business profits tax. Do I understand that there will be 35-35, and how will the other 30 percent be collected?

PRESIDENT DUPONT: Senator, at the present time, there are four equal payments. If you expect to make a profit, you used to pay 25 percent in the first quarter, 25 percent in the second quarter, and 25 percent in the third quarter, and your fourth quarter you'd pay the estimate of what you anticipated your profit would be. You're required to pay it before you made your actual filing to show what your actual profit was. Two years ago we changed that from 25 to 30 percent for the first two quarters, so that 60 percent would be paid in the first half of the year. What we are suggesting today is we go from 30 to 35 percent, so that 70 percent of the tax is collected in the first half of the year and 30 percent is collected in the last half of the year.

SENATOR DISNARD: When does the first quarter begin, July?

PRESIDENT DUPONT: It depends on when you're, what type of corporation you are, when your year actually begins and ends, but typically it would be April 15 and June 15.

SENATOR DISNARD: Sorry to hold you up, but I'm really not familiar with the BPT. What happens to an individual whose business generates largest income in the summertime, I mean the fiscal year is set that they must come up with that 70 percent at a time when their business is not generating money.

PRESIDENT DUPONT: Senator, at the existing time, if we raise the rate to 9 percent as we were going to do under the Senate proposal, it would have the same impact. They would be required to pay



additional monies during the next two quarters. In essence what we are doing under the Senate version which we passed last week, we would have required companies to pay at a 9 percent rate, April 15 and June 15, and then given it back to them after; when they made their next filing, September 15. Under this provision what would happen is that they would pay the higher rate, not the higher rate, but the percentage April 15 and June 15, and then when they make their September 15 payment, it would be at a lower number, decreased amount. It is merely creative bookkeeping, but at the end of the year the person is going to pay the same amount of money under our proposal tonight, that they would have paid under the old proposal.

SENATOR HOLLINGWORTH: One of the advantages of the last proposal that we had, that the Senate passed was that we were holding the feet to the fire of all of us, House and Senate, to take action on a modified BPT. I presume that that is no longer part of the new proposal before us?

PRESIDENT DUPONT: Senator, it is not. And that does disappoint me; however, I think that we have to face the reality that we have an obligation to continue government operations while we go forward from this point and the circumstances that we find ourself in tonight, as the state does not have money to pay its bills, and action is required. And I would hope that we would still go forward with the committment that we made to the business community to try and address the BPT reform knowing that it's going to be painful, just as painful as it has been if we had to have our feet held to the fire to do so.

SENATOR BLAISDELL: I'm not sure Mr. President, that it doesn't put our feet to the fire a lot more. Because I think what happens in the next half, I think it's going to be almost mandatory that we do a reform of the BPT. I think it's just the opposite. It's going to put our feet to the fire more and it's going to drive it more.

PRESIDENT DUPONT: Well Senator, I would only say that I think that the Senate has acted responsibly. I think the fact that we received a budget that was in deficit, that we took the actions necessary to deliver back over to the House, a balanced budget. That makes me proud of what the Senate has done and I think that the fact that we are willing to work towards a solution this afternoon, also speaks very highly of the body.

SENATOR HEATH: Isn't this essentially borrowing money from businesses who have trouble borrowing money themselves?

PRESIDENT DUPONT: Senator, it in essence speeds up the collection of taxes that would be owed at the end of the year. Which is



exactly what the House opposed, was the fact that we were collecting \$5,000,000 that we would have to give back during the second half of the year. Well we are still going to collect the same amount of money and we are going to reduce the liability in the second half of the year, which has the same result of giving the \$5,000,000 back, and Representative Sytek is shaking her head . . .

SENATOR NELSON: I just want to ask a question by way of history and my memory, I left it in another state. Is this a similar situation to which we did about three years ago, when we spent hours, and days, and months at the administrative rules committee? I know that Senator Blaisdell might remember that, but I remember that when we attempted something similar to this, about three years ago?

SENATOR BLAISDELL: I'm trying to remember and I'm not sure that that is what we did, Mary.

PRESIDENT DUPONT: Senator, the last time that this was done, we did it legislatively as part of a previous budget adjustment act, to the best of my knowledge.

SENATOR NELSON: But then when we implemented that, did we not have to go through the department of revenue administration and in order to implement that they had to bring in rules which became, because the way in which the legislation was written it was such a problem. I'm not trying to . . .

PRESIDENT DUPONT: Senator, I don't believe, I may be wrong, but I don't believe that this action, which will be suspended after this year.

SENATOR NELSON: It will be suspended?

PRESIDENT DUPONT: It will go back to the 30 percent after this year. It will require the passage of rules to do so.

SENATOR NELSON: We're allowed to address the chair as to the impact of this particular situation?

PRESIDENT DUPONT: Yes, you are.

SENATOR NELSON: O.K. Given the fact that, I'm not looking to debate the issue, but I want to get a better handle on it.

PRESIDENT DUPONT: I just want the members to be comfortable with what we are doing.

SENATOR NELSON: And that is your changing the 35-35, 15-15?

PRESIDENT DUPONT: We are going from 30-30, 20-20 to 35-35, 15-15. A 5 percent change in the first two payment periods.

SENATOR NELSON: And what is the, I didn't hear the question from the other side of the room, and the impact, what's the impact on the business community?

PRESIDENT DUPONT: The business community will not have its rate changed on the BPT, but it will take 5 percent more in its estimated payments during the first two quarters. So it is in essence an interest free loan, front loading the payments so that if you owed \$100 under the present language, you would pay \$30 April 15, \$30 June 15, and then you would pay \$20 in the next two quarters. Under our proposal you will pay \$35-35, 15-15. So if it's \$100 or over, we are asking people to pay \$10 of it early.

SENATOR PRESSLY: Mr. President, I don't know to whom to ask the question, do I ask the chair or in general? You are raising this April 15 and June 15 payment to 35 percent, could you tell us what it was prior to this 35 percent, was this a 20 percent?

PRESIDENT DUPONT: It was 30-30, 20-20, four payments. 30-30, 20-20, we are going to 35-35, 15-15. No changes in rate, just change in the amount of estimated payments.

SENATOR HEATH: Why couldn't this Shumway shuffle have been done some time ago?

SENATOR BLAISDELL: Let me say that the Shumway shuffle was done first of all at \$2,000,000, then it went to \$4,000,000, and went to \$6. We knew there was extra money in there, I could have bonded the boathouse up here, we knew there was another \$100,000 there. We did not do that, we didn't need it. We kept this aside. We knew that we could go back and look at other ends and that is exactly what we did, knowing what the House was doing.

SENATOR HEATH: Have you got anymore that you've got hidden away?

SENATOR BLAISDELL: No, there is no more, it's dry right now.

SENATOR HEATH: Probably if I'd asked you that six months ago . . .

SENATOR CURRIER: Remember that statement. Every time we turn around there is another \$750,000.

PRESIDENT DUPONT: Senator, I would only add that as we get into the biennial budget, we will be looking not to the \$750,000, but each individual dollar.

SENATOR J. KING: Am I understanding correctly that you said that they didn't agree with the voluntary furlough?

PRESIDENT DUPONT: They did not agree with the voluntary furlough.

SENATOR J. KING: My question would be, what was the specific reasons that they didn't go . . . with the effort to go and bond more and they've already volunteered to corporate and go along with that?

PRESIDENT DUPONT: Well Senator Hough would like to address it and for the purposes of continuing my good relations with the House, I think it's best that he address it.

SENATOR HOUGH: What I will tell you, what the President won't, is that the question of the voluntary furlough and the acceptance by the members of the House has only one rationale pride of authorship.

SENATOR CURRIER: And the Senate doesn't have that kind of attitude though, huh?

PRESIDENT DUPONT: Well I would only say that it was my hope from my work with the SEA that we would have been able to go forward with the voluntary program, and ask the state employees to participate and assist us in resolving this program and I think that they were willing to do that, and I will just end with that, because I think it would have worked and I think that we would have achieved some savings and I think that they would have felt good about helping. But given the fact that we have bills to pay and we need to take responsible action to do that, then I guess we are going to go along with it if the members of the body are agreeable to that.

### **COMMITTEE OF CONFERENCE REPORT ON HB 50-FN-A**

The committee of conference to which was referred House Bill 50-FN-A, An Act relative to state revenues and expenditures having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 7 with the following:

7 Revised Revenue Estimates; 1991. The general fund estimates of unrestricted revenue for fiscal year 1991 as inserted by 1989, 365:25 as amended by 1990, 1:19 are repealed and reenacted to read as follows:



GENERAL FUND	1991
Beer	\$13,000,000
Board and care	21,650,000
Business profits tax	124,000,000
Estate and legacy tax	25,200,000
Insurance	41,500,000
Interest and dividend tax	46,000,000
Liquor	57,500,000
Meals and rooms tax	90,200,000
Parks income	7,500,000
Dog racing	6,600,000
Horse racing	4,500,000
Real estate transfer tax	38,000,000
Communications tax	22,800,000
Cigarette tax	40,000,000
Utilities	8,800,000
Other	33,000,000
Courts	23,000,000
Savings bank tax	14,200,000
Total	617,450,000

Amend the bill by replacing section 9 with the following:

9 Appropriation Bonded; Department of Safety. Amend 1989, 77:10 to read as follows:

77:10 Appropriation; Department of Safety.

I. In addition to any other sums appropriated to PAU 02, 15, 03, 01, department of safety, division of safety services, division safety-watercraft safety, class 94, Glendale repair, the sum of \$100,000 is hereby appropriated for the fiscal year ending June 30, 1989. [This appropriation shall be a charge against the capital reserve fund, which is the amount in excess referred to in 1987, 399:10, II.]

**II. To provide funds for the appropriation made in paragraph I of this section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$100,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest of the bonds and notes shall be made from the general fund of the state.**

Amend the bill by replacing section 15 with the following:

15 Statement of Intent. It is the intent of this act that those capital appropriations amended by sections 9 and 16-19 of this act which were originally funded by the capital reserve fund, established by 1987, 399:10, II as amended by 1988, 254:83 and 1989, 77:23, in lieu of issuing bonds are to now be funded by the issuance of bonds as authorized by sections 9 and 16-19 of this act. The amounts originally

utilized from the capital reserve fund for the capital appropriations amended by sections 9 and 16-19 of this act shall be transferred from the capital reserve fund to the general fund undesignated surplus account. It is intended that \$4,223,000 of the amounts originally utilized from the capital reserve fund now be bonded and that same amount now be transferred to the general fund undesignated surplus account referred to above.

Amend the bill by inserting after section 24 the following and renumbering the original section 25 to read as 31:

25 Source of Funds; New Hampshire Hospital. The totals and estimated source of funds for 1990, 1:1.05, 01, 05, 04, 01 for fiscal year 1991 are repealed and reenacted to read as follows:

	FY 91
Total	1,176,266

Estimated source of funds for administration

01 Transfers from other agencies I	26,022
06 Agency Income I	404
General Fund	1,149,840
Total	1,176,266

26 New Hampshire Hospital; Line Item Decreased. 1990, 1:1, 05, 01, 05, 04, 02, class 23 for fiscal year 1991 is repealed and reenacted to read as follows:

	FY 91
23 Heat, Electricity and Water D	1,293,973

27 New Hampshire Hospital; Source of Funding. The totals and estimated source of funds for 1990, 1:1, 05.01, 05, 04, 02 for fiscal year 1991 are repealed and reenacted to read as follows:

	FY 91
Total	9,100,750

Estimated Source of Funds for Support Services

01 Other agency funds I	575,274
General Fund	8,525,476
Total	9,100,750

28 Appropriation; Division of Mental Health. Amend 1990, 1:1.05, 01, 05, 01, 01 by inserting the following new class lines for fiscal year 1991:

	FY 91
23 Heat, Electricity and Water D	406,027
49 Trans to Other State Agencies D	259,034

29 Division of Mental Health; Source of Funding. The totals and estimated source of funds for 1990, 1:1.05, 01, 05, 01, 01 for fiscal year 1991 are repealed and reenacted to read as follows:

Total	977,916
Estimated source of funds for office of director	
01 Other Agency Funds	80,408
06 Agency Income	7,200
General Fund	890,308
Total	977,916

30 Totals Adjusted. The legislative budget assistant is authorized to adjust the totals of 1990:1 as made necessary by the passage of this act.

*Conferees on the Part  
of the Senate*

*Conferees on the Part  
of the House*

Sen. Dupont, Dist. 6  
Sen. Blaisdell, Dist. 10  
Sen. Hough, Dist. 5

Rep. Hager, Merr. 21  
Rep. D. Sytek, Rock. 20  
Rep. Gross, Merr. 16  
Rep. Vaughn, Rock. 27

### AMENDED ANALYSIS

This bill makes appropriations and supplemental appropriations for fiscal year 1991. The bill also transfers or lapses certain special funds and accounts into the general fund. It requires interest earned from February through June, 1991, on 3 environmental funds to be credited to the general fund.

The bill makes appropriations, reductions for fiscal year 1991 for the legislative and judicial branches.

This bill removes the requirement that the treasurer retain unclaimed ticket money on pari-mutuel pools for one year before transferring such moneys to the general fund. The bill requires the treasurer to pay claims on order of the pari-mutuel commission from funds not otherwise appropriated.

The bill increases an appropriation to the postsecondary education commission. It also bonds certain appropriations which are currently a charge against the capital reserve fund.

The bill also establishes a New Hampshire economic development fund and makes an appropriation for its purposes.

Senator Hough moved to adopt the Committee of Conference report.

SENATOR MCLANE: We had a discussion the other day in this Senate about the payment to foster care parents and I think it be-



comes sort of a very symbolic issue for this Senate. Is that when the state borrows money, we don't want them borrowing money off the backs of foster care parents. My question is very simply, Friday, are the checks going to go out for those 800 foster care parents?

SENATOR HOUGH: Senator, the checks will go out tomorrow for those families, but within this week we met, as you know, because you were with us, with Doctor Bird and the payments are current on that line and he indicated that that was the case, and he is very sensitive to the position of the Senate.

SENATOR DISNARD: The Democratic Senate position is that we understand the problems, we understand where the emergencies are at the time, and demand a settlement such as this. The Democrats will support it, but the next time we hope more of us would be involved in the decision making and in the committee of conference before the decisions are made.

PRESIDENT DUPONT: Senator, I understand that and I am very sympathetic to that as I indicated earlier that you have a situation where they are really, for all intents and purposes, was no formal committee of conference on this legislation. The changes are minor and as Senator Hough indicated, they tend to be more ownership than substantial. And I can assure you that in the next budget committee of conference that we have, that your membership and the rest of the members of the Senate, will have more of an opportunity to participate, because that is going to be the difficult one and I do appreciate the cooperation that we have gotten from everyone today.

SENATOR HOLLINGWORTH: I would like to just have it clear for the records, that the changes in the general fund monies, is under the board and care. Is that correct?

PRESIDENT DUPONT: That is correct Senator. It is increased by \$650,000, second line under board and care.

SENATOR W. KING: I just wanted to say that we have arrived at a supplemental budget that we can live with and the Governor now has to implement and that we should all be very proud that we stuck together to create a supplemental budget.

PRESIDENT DUPONT: Again, I would only add that the chair appreciates the cooperation that the Senate has shown this afternoon and your patience. And quite frankly, it takes a lot when you get into these things. So the question before you is the adoption of the committee of conference report on HB 50.

Adopted.

Senators Currier, Heath, and Humphrey are in opposition to HB 50.

### COMMITTEE OF CONFERENCE REPORT ON HB 593-FN-A

The committee of conference to which was referred House Bill 593-FN-A, An Act relative to the rate of the business profits tax having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as passed by the House, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Business Profits Tax; Payments Due With Returns and With Estimates.

I. Notwithstanding RSA 77-A:7, all business organizations required under RSA 77-A:6, II to make payments of estimated tax shall make such payments in installments as follows: 35 percent is due and payable on the fifteenth day of the fourth month of the subsequent taxable year; 35 percent is due and payable on the fifteenth day of the sixth month of the subsequent taxable year; 15 percent is due and payable on the fifteenth day of the ninth month of the subsequent taxable year; and 15 percent is due and payable on the fifteenth day of the twelfth month of the subsequent taxable year.

II. If the return required by RSA 77-A:6, I shows an additional amount to be due, such additional amount is due and payable at the time the return is filed. If such return shows an overpayment of the tax due, the commissioner shall refund such overpayment to the taxpayer or shall allow the taxpayer a credit against a subsequent payment or payment due, to the extent of the overpayment, at the taxpayer's option.

2 Application of Section 1. The provisions of section 1 of this act shall:

I. Take effect upon the effective date of this act, regardless of when the taxable period of the business organization begins or ends.

II. Continue for one year from the effective date of this act.

3 Effective Date. This act shall take effect upon its passage.



*Conferees on the Part  
of the Senate*

Sen. Colantuono, Dist. 14  
Sen. Dupont, Dist. 6  
Sen. Hollingworth, Dist. 23

*Conferees on the Part  
of the House*

Rep. D. Sytek, Rock. 20  
Rep. Hayes, Merr. 21  
Rep. Gross, Merr. 16  
Rep. LaMar, Ches. 16

**AMENDED ANALYSIS**

This bill changes the provisions for making the payments due with returns and estimates under the business profits tax for one year from the effective date of the bill.

Senator Hollingworth moved to adopt the Committee of Conference report.

Adopted.

Senators Currier, Heath, and Humphrey are in opposition to HB 593.

**RESOLUTION**

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn to the call of the chair.

Adopted.

Senator Delahunty moved that we now adjourn until Tuesday, March 26, 1991 at the call of the chair, with the exception of referring bills to the committee.

Adopted.

**LATE SESSION****Third Reading and Final Passage**

**SB 59-FN**, an act relative to a state-sponsored credit card program.

**SB 109-FN**, relative to the time for holding the 1991 Newmarket town meeting.

**SB 115-FN**, an act relative to livestock.

**SB 132-FN**, establishing a committee to study an early warning system for monitoring licensed nuclear power plants.

**SB 153**, an act relative to licensing of pharmacists.

**SB 155**, an act relative to mechanics' liens.

**SB 189-FN**, allowing raffles to be conducted at the same place as bingo games.

**SB 196-FN**, an act relative to administrative revocation of motor vehicle licenses of persons under age 21.

**SB 223**, an act relative to prohibiting the study committee established under 1989 281:1 from considering whether to move or relocate the Dover Toll Plaza.

**SB 229**, an act relative to a Martin Luther King Human Rights Day.

**HCR 13**, calling for the delay in the implementation of the Internal Revenue Service advisory opinion on mileage reimbursements for members of the general court.

Senator Delahunty moved that we adjourn to the call of the chair.

Adjournment.

*March 26, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let Us Pray. Lord, these are exciting days as we handle the bills before us through compromise—especially the budget. Show us the right way, Lord, and help us to overcome our difficulties. Good Luck and may the Lord bless us. Amen.*

Senator Podles led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

## HOUSE MESSAGES

## HOUSE CONCURS WITH COMMITTEE OF CONFERENCE REPORTS

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

**HB 50-FN-A**, relative to state revenue and expenditures.

## HOUSE CONCURS WITH COMMITTEE OF CONFERENCE REPORTS

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

**HB 593-FN-A**, relative to the rate of the business profits tax.

## COMMITTEE REPORTS

**SB 160**, an act granting condominium associations a 6-month assessment lien priority over first mortgage or deed of trust liens. Banks committee. Ought To Pass With Amendment. Senator Fraser for the committee.

**SENATOR FRASER:** The report on page 8 of the Senate Calendar is the amended version of SB 160. The original version of this bill allowed the condominium association a lien for six months in the event of a foreclosure by the lending institution. In other words, the association would have had first priority of the mortgage to recover six months of dues. Through the perseverance and effort by the bill's sponsor, Senator Pressly, an agreed amendment with the banking community has been offered and the amendment now affects liens only on mortgages financed after the effective date of the act. I urge passage of the amended version of 160.

## Amendment to SB 160

Amend RSA 356-B:46, I-a as inserted by section 2 of this act by replacing it with the following:

I-a. A lien under this section shall be prior to all other liens and encumbrances on a unit which are recorded on or after the effective date of this act except (a) liens and encumbrances recorded before the recordation of the declaration; (b) a first mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real estate taxes and other governmental assessments or charges against the unit. The lien shall also be prior to the mortgages and deeds of trust described in (b) above to the extent of the common expense assessments assessed pursuant to RSA 356-B:45 based on the periodic budget adopted by the unit owners' association which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This paragraph does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the unit owners' association. Unless the declaration otherwise



provides, if 2 or more unit owners' associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

Amend the bill by replacing all after section 2 with the following:

3 Applicability. This act shall be applicable only to mortgages financed on or after the effective date of this act.

4 Effective Date. This act shall take effect 30 days after its passage.

### AMENDED ANALYSIS

This bill grants condominium unit owners' associations a 6-month assessment lien priority over first mortgage or deed of trust liens. This association lien priority applies only to monthly or periodic common expense assessments made by an association pursuant to an annual operating budget which would have become due in the absence of acceleration and not to special assessments imposed by the unit owners' association. The association lien priority is applicable only to mortgages financed on or after the effective date of this act.

Amendment Adopted.

Ordered To Third Reading.

**SB 179-FN**, an act allowing real estate firms or brokers to establish interest-bearing trust accounts. Banks committee. Inexpedient To Legislate. Senator Fraser for the committee.

**SENATOR FRASER:** This bill would have allowed brokers to put deposits on sales into interest bearing trust accounts. The interest earned would have been sent to the New Hampshire Housing Finance Authority. The idea sounds good but the money is not the brokers to spend. It belongs to the person making the deposit. The bill also failed to address the administrative nightmare of having an interest bearing account for every transaction. Under existing laws, a broker can not complete funds, if interest is paid. We felt that Senator King has had the bill before and we felt that the bill would not be of any great use to the community and therefore we moved it out as inexpedient to legislate.

**SENATOR W. KING:** I just want to make it clear to the Senators that the bill did not and does not require separate escrow accounts. Right now, the law is that all deposits on real estate must be placed in a non-interest bearing escrow account unless a request is made by the people who make the deposit or for it to be put in a special interest bearing account. What that means is that the interest earned on escrow accounts is essentially interest that belongs to the bank. This bill merely said that a special account could be estab-

lished whereby the escrows would go into an interest bearing account and those interest monies would be used for affordable housing projects through the New Hampshire Housing Finance Authority.

Committee Report Adopted.

**SB 41-A**, an act relative to the construction of a fire training academy for New Hampshire fire fighters and making an appropriation therefor. Capital Budget committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: SB 41-A represents a problem of long standing, and that is an effort to find a home for the fire standards and training. Back in 1988, the General Court appropriated \$125,000 for design and engineering. This has long since been accomplished but the estimate for the construction of the new facility is marked at \$4.9 million. The department of transportation has land available on Route 106 in Loudon. This site would be ideal for a fire standards and training academy. The problem has always been the source of funding for this facility. Early efforts centered on an increase in insurance premium taxes. This wouldn't be workable because of the retaliatory provisions and would have played havoc with our domestic insurers. This year, by a joint effort by Commissioner Flynn and domestic insurance companies, a method of funding, which incidentally is endorsed by Governor Gregg, has been offered in the form of a trailer bill. Today insurance companies pay \$5.00 per copy for drivers records. The trailer bill would increase that to \$7.00, the \$2.00 differential would go to the general fund but would be earmarked for funding of the bond. This will be a state facility handled as a debt service of the state. I was supposed to have a floor amendment and it would have clearly defined the intent of the Senate to have that \$2.00 surcharge marked for this project.

Senator Hough moved to have SB 41-A, Laid On The Table.

Adopted.

**SB 41-A, is Laid On The Table.**

**SB 55-A**, an act relative to replacing the Warren Bridge on New Hampshire Route 25. Transportation committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill simply adds the Warren bridge, which was the site of the tragic accident involving the state troopers recently, to the ten year bridge replacement plan as UU after the Plymouth bridge. It doesn't add any expenditure of funds and there is nothing in the bill that requires when this has to be done. It is a very simple bill and we recommend ought to pass.

Recess.

Out of Recess.

Senator Delahunt in the Chair.

### **Amendment to SB 55-A**

Amend the bill by replacing section 1 with the following:

1 New Subparagraph; High Priority Bridge Replacement in Warren. Amend 1988, 215:2, I by inserting after subparagraph (tt) the following new subparagraph:

(uu)	Warren	NH 25/Baker River
	109/048	SD*

### **AMENDED ANALYSIS**

This bill directs the department of transportation to replace the Warren Bridge on New Hampshire Route 25.

Amendment Adopted.

Ordered To Third Reading.

**SB 138-FN**, an act relative to defining the term "responsible bidder" for the purpose of certain capital projects. Capital Budget committee. Ought To Pass With Amendment. Senator Shaheen for the committee.

**SENATOR SHAHEEN:** This was originally a bill which would have required all bidders on state contracts to provide health insurance for their employees, at least on contracts over \$100,000. At the hearing, the committee felt there were a number of issues that weren't resolved, but we basically supported the idea. We decided that the best way to move forward and try and get something accomplished with the idea would be to establish a study committee which is what this bill basically does. As you can see the members of the study committee are a member of the Senate, a member of the House, the commissioner of DOT or designee as a non-voting member, the commissioner of Administrative Services or designee as a non-voting member, a representative from the associated general contractors, a representative from the associated builders and contractors and people representing labor.

Recess.

Out of Recess.

Senator Dupont in the Chair.

### **Amendment to SB 138-FN**

Amend the title of the bill by replacing it with the following:



## AN ACT

establishing a committee to study the bidding process on state construction projects.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Members. A committee is hereby established to study the impact of requiring bidders on state construction projects to provide health insurance. The committee shall consist of the following:

I. One member of the senate, nominated by the chair of the capital budget committee and appointed by the president of the senate.

II. One member of the house, nominated by the chair of the commerce, small business and consumer affairs committee and appointed by the speaker of the house.

III. The commissioner of the department of transportation or designee. The commissioner or designee shall be a non-voting member of the committee.

IV. The commissioner of the department of administrative services or designee. The commissioner or designee shall be a non-voting member of the committee.

V. One person representing general contractors, nominated by the president of the Associated General Contractors of New Hampshire, Incorporated and appointed by the governor.

VI. One person representing building and construction trades, nominated by the president of the New Hampshire Building and Construction Trades Council and appointed by the governor.

VII. One person representing builders and contractors, nominated by the president of the Associated Builders and Contractors, Incorporated and appointed by the governor.

VIII. One person representing labor, nominated by the president of New Hampshire AFL-CIO, and appointed by the governor.

2 Study Required. The primary duty of the committee shall be to study all issues relating to the impact of requiring bidders on state construction projects to provide health insurance to employees. The committee shall also determine the extent of health care coverage available to employees of bidders on state construction projects, and the true fiscal impact of requiring bidders to offer health insurance to employees.

3 Report. The committee shall submit a report on its findings, including any recommendations for legislation, to the president of the senate, the speaker of the house and the governor, on or before November 1, 1991.

4 Mileage. Legislative members shall receive mileage at the legislative rate when attending to the business of the committee.

5 Appointments; Initial Meeting. All appointments to the committee shall be made within 30 days of the effective date of this act. The senate members shall call the first meeting of the committee and shall serve as the chair.

6 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study the issue of the impact of requiring bidders on state construction projects to provide health insurance to their employees.

Amendment Adopted.

Ordered To Third Reading.

Senator Colantuono in opposition to SB 138-FN.

**SB 4-FN-A**, an act relative to the port of New Hampshire Port Authority and making an appropriation therefor. Economic Development committee. Ought To Pass With Amendment. Senator Shaheen for the committee.

SENATOR SHAHEEN: Originally, SB 4 would have empowered the port of New Hampshire port authority to expand, develop, operate and manage the port to further maritime commerce and trade. There were a number of issues that were raised by the bill. The city of Portsmouth had a number of concerns that were not resolved. The committee felt that there wasn't enough time to deal with the legitimate questions that had been raised between the time the bill was presented and the time at which we needed to get it out of the Senate. So again, we established a study committee to look into some of the issues further.

### Amendment to SB 4-FN-A

Amend the title of the bill by replacing it with the following:

#### AN ACT

establishing a committee to study the New Hampshire  
state port authority.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is hereby established a committee to study the New Hampshire state port authority including, but not limited to, a cost-benefit analysis of a capital investment to expand the port and the feasibility of merging the New Hampshire state port authority with the Pease development authority.

2 Membership. The committee members shall be as follows:

I. Three members of the senate, appointed by the president of the senate.

II. Three members of the house of representatives, appointed by the speaker of the house.

III. Three members of the public, appointed by the governor.

3 Meetings. The committee shall conduct its first meeting within 30 days after the effective date of this act. At the first meeting a chair shall be chosen from among the members of the committee.

4 Report. The committee shall submit a report, including recommendations for legislation, to the state president, the governor, and the speaker of the house on or before November 1, 1991.

5 Compensation. The committee members shall not be compensated for their services, but legislative members shall receive mileage at the legislative rate.

6 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill creates a committee to study the New Hampshire state port authority including, but not limited to, a cost-benefit analysis of a capital investment to expand the port and the feasibility of merging the New Hampshire state port authority with the Pease development authority.

Amendment Adopted.

Ordered To Third Reading.

**SB 7-FN-A**, an act relative to an industrial research center at the University of New Hampshire. Economic Development committee. Ought To Pass. Senator Shaheen for the committee.

SENATOR SHAHEEN: What this bill does is set up a center for research and technology at the University of New Hampshire. It would be financed by an appropriation of \$500,000, of which \$200,000 would be start up costs. The balance of the appropriation would be matched dollar for dollar from the income of the center's operation. I think this bill is a really excellent piece of legislation. I have to say that it comes from the University of New Hampshire. I wish that those of us who sponsored the bill could take credit for it but we can't. But I think it sets up the kind of partnership between a public university and private business that we really want to foster in New Hampshire to encourage economic development. The committee said that this was the best piece of legislation that we thought was coming out of economic development so far this session. So I urge everyone to support it.



SENATOR HEATH: Senator, I vaguely remember that there was something like this 8 or 9 years ago at the University and I believe that still exists. A program that matched research with industrial needs of the state of New Hampshire. How does this differ from those programs?

SENATOR SHAHEEN: Unfortunately, I am not familiar with those programs and they didn't come up in the discussions about this particular program. Perhaps someone else here is familiar with them.

SENATOR HEATH: We were given a presentation last year at University Day.

SENATOR SHAHEEN: Some of us weren't here last year.

PRESIDENT DUPONT: One of the things that this allows is to allow the small manufacturers to access that on a shared cost basis which the existing one is privately funded. If you are a company and you want research, you go and you pay for it.

SENATOR HEATH: This would fall under the aegis of that program.

PRESIDENT DUPONT: It is very similar to it.

SENATOR HUMPHREY: Senator Shaheen, the bill appropriates, does it not, a total of \$1,000,000 for the next two years?

SENATOR SHAHEEN: Actually, the \$200,000 is the start up cost on the appropriation. And the \$1,000,000 is the wish list on what it would take to operate the center. The money will be matched by private contributions.

SENATOR HUMPHREY: Yes, but we are being asked now, irrespective of possible matching funds, \$500,000 for this year and \$500,000 for next year, a total of a \$1,000,000 for the next fifteen months?

SENATOR SHAHEEN: That is right.

SENATOR HUMPHREY: If this is so important to the University and the state, why wasn't it submitted as part of the University's budget?

SENATOR SHAHEEN: I think because the idea is that this is going to be a program that is not ongoing with the University right now. It is something that would be starting that would help provide assistance to small businesses in the state. Therefore it is not part of the university program itself.

Recess.

Out of Recess.

SENATOR SHAHEEN: I stand corrected. In fact, the appropriation for this bill is in the bill that we passed last week, the revolving loan fund that was bonded to the tune of \$5,000,000. The appropriation for this bill was part of that fund. So in fact, when we vote on this today, we are not voting any additional money for this bill.

PRESIDENT DUPONT: For the record, the House did concur with the committee of conference report so both of those pieces of legislation are on their way to the Governor's desk at this time.

SENATOR HUMPHREY: This is then an authorization and not an appropriation?

PRESIDENT DUPONT: That would be correct.

SENATOR HUMPHREY: We first passed the appropriation bill and we now give them the authorization?

PRESIDENT DUPONT: One of the things that we did in HB 50 was allow DRED the opportunity to use that \$5,000,000 for purposes such as this, Senator.

SENATOR BASS: I rise in support of the committee position. I can not think of a better or more appropriate piece of legislation for this body to be considering right now in our hard economic times. The economic development committee considered a whole raft of pieces of legislation designed to help the economy in New Hampshire, many of which would have cost substantially more than this program. But the whole concept here is that you take small businesses, little people with good ideas, and you provide them with the tools that they need in order to turn a good idea into a company that will provide jobs and economic growth for our state. It brings into play our university system. It is based on a matching grant basis so that the applicant and the university have to come up with equal amounts of money. In effect, you are leveraging these funds 100 percent by passing this bill. I can't think of a better lever for us as policymakers in New Hampshire to use in order to promote economic rebound here in New Hampshire and I urge your support on the committee's position.

SENATOR NELSON: Senator Bass, I noticed that there are, on this oversight committee, who will have a goodly amount of money with which to deal? It says five members representing business and industry. Are those going to be people appointed around the state? It seems to be pretty general for a committee that is going to have

so much money to deal with. I just wanted to get a handle on who these five people could possibly be and are they coming from around the state?

SENATOR BASS: I certainly think that the record should show that those five appointees should represent a diversity both geographically as well as in business experience and business size. I can't imagine any reason why that would not occur.

SENATOR NELSON: I just want to understand the financial part of it. I heard you say that you sponsored it strongly. Is it my understanding that this committee will oversee the use of the money?

SENATOR BASS: That is correct.

SENATOR NELSON: I understand that we want to help the state get back on it's feet and this is a good idea. But were there any guidelines established in terms of the grants or is that going to be established in some other manner? Because it just doesn't say specifically what you will do with the money.

SENATOR BASS: If I refer you to page 2 of the bill, the committee, in consultation with the board, shall establish the criteria and the procedures relative to the general operation of the center and also review the applications. I had a concern in the economic development committee about the necessity of having these grants apply to small businesses primarily and not have the lion's share of the fund go to some large business, bearing in mind that they may, in fact, have the resources and facilities in house to do this kind of research. And I was assured by the appropriate people at UNH that that was their intent.

SENATOR COLANTUONO: Senator Shaheen, the appropriation part of this bill is what concerns me and as I understand it there is a half a million dollars that is going to come out in this current fiscal year, prior to June 30, 1991. Are you saying that this money is going to come from the money we appropriated under HB 50 for the economic development fund?

SENATOR SHAHEEN: That is right.

SENATOR COLANTUONO: HB 50 provides \$5,000,000 to go to the economic development fund to be distributed by the commissioner of DRED upon the advice and prior approval of a committee set up under that piece of legislation, not the committee set up under this piece of legislation. But this piece of legislation says that the oversight committee is the committee that spends this money. Don't you see a conflict here? I am not sure we are doing what the people on the floor are saying we are doing with this legislation.



SENATOR SHAHEEN: I guess I don't understand exactly what your issue is?

SENATOR COLANTUONO: How is the money that we appropriated under HB 50 going to get into the hands of the oversight committee that we are establishing under SB 7?

SENATOR SHAHEEN: Part of the agreement, as I understand it, in establishing that fund was that money would go back to support this program. If you look at the bill, it says the money is going to come through DRED.

SENATOR COLANTUONO: Is there anything in HB 50 or in SB 7 that specifies that?

SENATOR SHAHEEN: SB 7 specifies that the money will come through DRED. Now, I don't know if there is anything in HB 50. Senator Hough points out that HB 50 puts the five million into DRED and they are required by this bill to put the money into the center.

SENATOR COLANTUONO: Isn't it true that HB 50 prohibits any money from being expended unless there is prior approval of the economic development committee under HB 50 and the approval of the Governor and Council? So my question is how can we bypass that whole process by this bill?

SENATOR SHAHEEN: My assumption is that, given the fact that the bill would require the funding for this research center, that the committee would approve that as a formality.

PRESIDENT DUPONT: Senator Colantuono, I will be referring this to Finance to double check the language issue that you just raised. But the appropriating position of HB 50 would lead me to believe that the appropriation would take place in spite of this language.

SENATOR COLANTUONO: My obvious concern is that this bill read alone appropriates a half million dollars and it appears from the general fund, and my question is what would that do to the supplemental budget mess that we just tried to clean up.

PRESIDENT DUPONT: That is why it will be referred to Finance.

SENATOR HUMPHREY: Senator Shaheen, according to the bill, the center is to enter into a grant program. However, do I understand it correctly that none of the million dollars appropriated by this bill will be used to fund the grants, but rather to it is all overhead?

SENATOR SHAHEEN: I don't know the answer to that.

SENATOR HUMPHREY: For what purpose is the million dollars to be put?

Recess.

Out of Recess

SENATOR COLANTUONO: I have a question that might be helpful to the Finance committee when they look at this. But my question is, on page 3 line 7, the funding mechanism says that any state appropriation made for the financial support of the center shall be matched dollar for dollar by various groups including the federal government and local political subdivisions. Usually, when we use the word shall, it is mandatory and required. My question is, if none of those groups say they want to pay any money into this fund, is the oversight committee prohibited from using the state matched funds until they are matched dollar for dollar by these other sources?

SENATOR SHAHEEN: It is my understanding that that is true.

SENATOR COLANTUONO: We are leaving it open now for these other agencies to scuttle the whole bill by refusing to pay any money, is that correct?

SENATOR SHAHEEN: My understanding is that the only agencies who we are depending on to get this up and running is DRED. And that any other agencies which would provide money for the center would be doing it in a match situation so that a private business would come to the center and they would put in however much money was going to be put up by the center. The same is true assuming the city of Dover had an issue that they wanted the center to deal with, they would put up half of whatever money was required to deal with that. So that, as I understand, those entities aren't putting the money up in advance. They are matching what is already at the center from DRED.

SENATOR COLANTUONO: If none of these entities put any money into it, then none of this money gets spent?

SENATOR SHAHEEN: That is my understanding.

SENATOR NELSON: Senator Blaisdell, in that this bill is going to your committee.

SENATOR BLAISDELL: I don't know that this bill is going to my committee.

PRESIDENT DUPONT: I think there have been some questions raised that perhaps we need to take another look at it, so I would like to refer it.

SENATOR BLAISDELL: When would this bill have to be brought out?

PRESIDENT DUPONT: It would have to be brought out on Thursday.

SENATOR BLAISDELL: I'll take it in Finance, if you would like, and bring it back on Thursday. But I thought it was pretty clear cut what happened here. We passed it in HB 50. Revenue Administration is going to be able to have the bonding.

SENATOR NELSON: Senator Blaisdell, what I wanted to ask you is this, when you look at this bill, others have covered the financial aspects but I wish there was a mechanism in this bill that would address the generalities of it that say on line 12 "in kind and equipment, contributions may be accepted under criteria established by the committee." That the criteria on another page "shall include but not be limited to the following:" Would you, in your committee have an opportunity so that the public who apply for these grants would have an idea of the footing on which they stand, in that this is so general. That is what concerns me. That you take a closer look at the language of the criteria and what is required where we don't have any rulemaking on top of this bill.

SENATOR BLAISDELL: I have just been informed by Senator Hough that we have an amendment in the pipeline already. We will take it down and take a hard look at it. And my answer to you is yes.

SENATOR HUMPHREY: Senator Blaisdell, relative just to the \$500,000 appropriated to this fiscal year, what is the effect on the deficit?

SENATOR BLAISDELL: Nothing. I don't think there will be any effect on the deficit.

SENATOR HUMPHREY: So the \$500,000 expenditure has already been anticipated?

SENATOR BLAISDELL: It is in the \$5,000,000 bonding authority that we gave the Department of Resources and Economic Development. I thought that is what we understood when we passed HB 50.

SENATOR HUMPHREY: How much bonding authority?

SENATOR BLAISDELL: Five million dollars.

SENATOR HUMPHREY: This appropriation is to be bonded?

SENATOR BLAISDELL: The money will come out of the bonding.

SENATOR HUMPHREY: It is mind-boggling in this fiscal crisis that we would be proposing to spend \$500,000 over the next three months and to bond that expenditure for some pie in the sky scheme



about how to restart this economy. It has been my observation, perhaps not that of others, that when you have these government schemes by the time they produce any positive effects, if any, it is a couple of years later when the economic crisis which they are supposed to address has already passed. I want to register my opposition to this matter. \$500,000 for three months and then \$500,000 for the next year. Is any of this to be spent on salaries and supplies and equipment? Or is all of this to be grant money? I am not asking it of anyone but someone might want to respond to it. In any event, I want to register my opposition to it.

SENATOR W. KING: Let's start out with the issue of pie in the sky ideas for dealing with the economic problems for the state of New Hampshire. I want to tell you about a business called Clarostat. That is in the Durham area that worked with the University of New Hampshire. The University of New Hampshire over a short period worked with Clarostat on a process for producing what is a small, round device that is made of rubber. The curing time, when Clarostat came to UNH was 24 hours of electric energy. In a short amount of time, UNH, working with Clarostat. Reduced the curing time to less than 2 hours for that device. That, in fact, drove tremendous growth for this one company. The idea behind this bill is simply to set up a private/public partnership for research and development that will help drive the economy. Yes, some of it will take some time to do. Some of it may happen real quickly. But the job of our committee, the economic development committee, and the job of each of us as Senators is to try and find ways that we are going to be able to drive the economy as quickly as we can. There is no conflict in my opinion in terms of this money. First of all, I point you to the mechanism by which we fund the Small Business Development Center in the state of New Hampshire. The Small Business Development Center is funded through the department of Resources and Economic Development. We do not tell them how they are going to assist businesses, how they are going to expend that money to assist businesses. We merely make the decision as the legislative oversight committee will make in the case of this bill, that we are going to make a grant of x number of dollars to this organization for this purpose. That is exactly the mechanism that will be used from the \$5,000,000 fund that we established in HB 50 to fund this project. The committee that will work for the research center will then make the decision about where those funds will be allocated. But they will only be allocated if there is a matching grant from a business or from some other organization that seeks to promote the research and development of a certain project. It is money that is very well spent. It is not going to affect the deficit at all because it is bonded money

from this \$5,000,000 that we appropriated in order to fund an economic development fund for the state of New Hampshire. I don't think that our committee will see in this session of the legislature a bill that is more important and that is better for utilizing the tremendous asset that we have at the University of New Hampshire which is terribly under-utilized.

SENATOR SHAHEEN: First of all, I would like to point out, Senator Nelson, you had a question about criteria for awarding of grants. I would like to point out that on page 2, roman numeral III, there is a section of the bill which says that the committee in consultation with the board of trustees shall establish criteria procedures to do just that, submission, acceptance and awarding of proposals for funding. So that is covered in the bill. I would also like to add to what Senator King said. One of the things that we have had testified before us on a number of occasions in the economic development committee is the fact that jobs are created in New Hampshire not primarily by recruiting new companies into the state, but by providing support to existing companies so that they can expand and provide more jobs. That is the kind of thing that I think this bill is trying to do. I believe we can be penny wise and pound foolish in this crisis and totally cut off any of the funds that existing companies in the state need to expand and create more jobs. I don't think we want to do this. I think, in fact, what we want to do is to set up opportunities for existing companies to be able to grow and to be able to get the kind of help they need. That is what I see this bill doing.

SENATOR NELSON: I don't want to beat a dead horse, because like everyone else in this room, I also want to get the economy going, in that I come out of the second largest city in the state and we have a high unemployment rate. So I have no problem with that. My concern is that in trying to solve the problems of the state that we become short sighted and in some of the legislation that we hasten to pass that we leave such incredible loopholes in it. I don't want to be didactic or sounding preachy but I understand that this says there are criteria, but the next line says such criteria will include but not be limited to, and then it talks about cooperative agreements with neighboring states. What is that? Submission, acceptance and awarding proposals for funding, I understand that. I just think there is a lot of latitude in the bill. We have an administrative rules committee that has worked for years, and years and years. There are rules and procedures already established. I find it interesting that they are among the missing. And I think it gives a tremendous amount of responsibility to one committee. Thank you for your time.



SENATOR HUMPHREY: Senator Shaheen, is it anticipated that any of these funds can be used for salaries or can these appropriated funds only be used for grants?

SENATOR SHAHEEN: My understanding is that they can only be used for grants.

Adopted.

Referred To Finance (RULE #24).

Senator Humphrey in opposition to SB 7-FN-A.

**SB 57-FN**, an act relative to the review of New Hampshire corporate laws. Economic Development committee. Ought To Pass. Senator W. King for the committee.

SENATOR W. KING: SB 57 would establish a committee to study corporate laws in the state of New Hampshire with an eye toward identifying ways to expedite the process of incorporation, and attracting new enterprises into the state of New Hampshire. This is an initiative that has been discussed for some time now. At the public hearing, representatives of the Business and Industry Association explained that a committee of the association had been reviewing both our corporate and securities laws and could easily be made more manageable. Likewise, we heard from the corporate division of the Secretary of State that a review of the statutes was long overdue. We learned that modern technology has created abundant opportunities to streamline and simplify the management of corporate documentation. As you may recall, this Senate has recently endorsed innovative legislation introduced by the Honorable Leo Fraser that would encourage the establishment of mutual funds in New Hampshire by providing the necessary legal framework for such enterprises and removing certain fiscal hindrances to their operation. This kind of creative approach promises to foster enterprise and employment, the mainstays of sound economic development in the state of New Hampshire. This bill seeks to generate more initiatives of that kind. The committee itself would include a member of both the Senate and the House, the Attorney General's Office, representatives of the Business and Industry Association, the New Hampshire Association of Commerce and Industry, chambers of commerce, the banking community and two private citizens. The commissioner of the department of resources and economic development would also serve on the committee. I believe that this study will discover ways to create entrepreneurial opportunities in the state of New Hampshire while making the conduct of business easier, simpler and cheaper for existing companies.



Adopted.

Ordered To Third Reading.

**SB 79-FN**, an act establishing a committee to study an expedited permit process for environmental permits. Economic Development committee. Ought To Pass. Senator W. King for the committee.

SENATOR W. KING: SB 79-FN establishes a committee to study expedited hearing process. It would study the permitting process in order to find ways of reducing costs and the time required to obtain approval for projects contributing to the economic development of the state of New Hampshire. I want to make it clear that this bill will neither short circuit the permitting process or lax the standards for environmental protection that we have in the state of New Hampshire. That is the basic underlying premise behind this. Several of us have had the opportunity to hear members of the construction community talk about the amount of costs that is associated with merely permitting projects in the state of New Hampshire. In some cases, that can run as high as 20 to 25 percent of a project. The committee recognized that a number of factors, apart from the process itself, can increase the cost. That is why we felt that it was appropriate for us to take a look at whether there was a way that we can, in an environmentally sound fashion, expedite the process.

Adopted.

Ordered To Third Reading.

**SB 80-FN**, an act relative to sunset review of the industrial development authority. Economic Development committee. Inexpedient To Legislate. Senator Cohen for the committee.

SENATOR COHEN: I would prefer to report on this bill in conjunction with the next committee report which is SB 101 into which SB 80 has been incorporated. Since the intent of SB 80 is achieved by SB 101, the committee recommends inexpedient to legislate.

Committee Report Adopted.

**SB 101-FN**, an act establishing a study committee relative to the industrial development authority. Economic Development committee. Ought To Pass. Senator Cohen for the committee.

SENATOR COHEN: As you know, the industrial development authority has become a source of controversy of late, even litigation, just when its role as agent to finance economic development is most important. Two bills were introduced to address this issue. I sponsored SB 80 which would have applied the sunset process to the IDA and Senator Dupont introduced SB 101. After listening to the testi-

mony presented at public hearings on both bills, the committee concluded, and I certainly concur, that the sunset process was not an appropriate or an effective means of insuring that the industrial development authority play its proper part in our economic development initiatives. Instead, the committee decided that the purpose of both bills would be best achieved by the study committee as established by SB 101. The IDA manages one hundred billion dollars of tax exempt bonding authority which can be directed to a variety of public and private purposes. However, changes in the federal tax code and bond underwriting processes have affected the work of the IDA. Moreover, the authorities guarantee program, which has not been revised since it was introduced in 1955, has become unnecessarily restrictive. The director of the IDA welcomes this initiative by the Senate to consider the issues besetting the authority and to provide more effective direction to the authority. The resource and operation of the IDA are essential to our economic development efforts, but we must insure that these resources are put to their fullest use and that these operations are not hindered by controversy. The committee expects this study will offer specific legislative proposals to restructure and redirect the IDA in order to contribute significantly to the economic development of New Hampshire.

Adopted.

Ordered To Third Reading.

**SB 111-FN**, an act establishing an advisory committee on economic development. Economic Development committee. Inexpedient To Legislate. Senator W. King for the committee.

SENATOR W. KING: SB 111 would have established a study committee to advise the director of economic development on economic development issues. During the public hearing, we heard from the department of resources and economic development that they already had an informal advisory committee with which they were meeting. As those of you who may have read the Governor's recent report, he is also recommending that an advisory committee be established to advise the Governor. So we felt this was a duplication of efforts and the committee recommends inexpedient to legislate.

Committee Report Adopted.

**SB 145-FN-A**, an act establishing a New Hampshire small business mini-loan program and making an appropriation therefor. Economic Development committee. Inexpedient To Legislate. Senator W. King for the committee.

SENATOR W. KING: This is my bill and so was the last one and Roger Heath said to me that at least you have better success at



killing your own bills than I have. When this bill was conceived there were actually very few offerings that the state had to assist in small business development and investment in the state of New Hampshire. Since this bill was submitted, a number of important developments have taken place, most notably, an issue which we have just discussed, the \$5,000,000 fund that was created by the Senate last week. So the committee recommends that this bill be inexpedient to legislate.

SENATOR NELSON: Senator, I just wanted to have clarification of this, because this bill specifically states small business mini loans. Would the other bill that we were just talking so much about address some of the concerns in here?

SENATOR W. KING: Yes. Senator Nelson, there are a number of things outlined in HB 50 that is specific to the \$5,000,000 program that would be eligible to receive funds from that program. One of those things is community development corporations, those community development corporations specifically provide loans for small businesses to start up, expansion, capitalization, whatever they have a need for.

SENATOR NELSON: I was just curious how it was possible to get so specific in this piece? We said 25 employees, we said partial state grants, low interest, how was this possible?

SENATOR W. KING: A democrat wrote it.

Committee Report Adopted.

### INTRODUCTION OF GUESTS

Senator Dupont introduced William Zeliff, U.S. Congressman from District One.

CONGRESSMAN ZELIFF: I would just like to say that I am very proud to represent you in Washington. It is the most exciting thing I have ever done in my life. This pin is the most expensive piece of jewelry that I have ever worn, but it is one that is very, very special. I obviously worked just as hard for this as I did to beat Roger Heath in 1984. But to be honest with you, to serve in government right now with the challenges we all face, both state and national, is a tremendous privilege. I would like to say that in the tough times that we are in right now, and when you have tough times, strong people come to the surface, and cream rises to the top. And what we have in New Hampshire is something very special. We have our natural resources. We have a lot of good things, and once we solve the banking problem and once we solve this energy problem, we are going to



start seeing some daylight. The word American — the last four letters is I Can. I can and you can and if we all work together we are going to solve this thing and get New Hampshire back working again, jobs and the economy and all the other things that we enjoyed in the past. I would just like to say from my public works subcommittee point of view and my government operations that I am going to do everything I can to get every single nickel back here to New Hampshire.

### COMMITTEE REPORTS

**SB 217-FN**, an act to permit designation of enterprise zones by the director of economic development, department of resources and economic development. Economic Development committee. Interim Study. Senator W. King for the committee.

**SENATOR W. KING:** This bill actually traces its origins back some time ago to about 1968, when Robert Kennedy was running for President of the United States. He began talking about enterprise zones. Some time after that Ronald Reagan and Jack Kemp and others began to talk about it as well. The concept behind the bill is fairly clear. By designating particular economically disadvantaged communities or regions as enterprise zones and offering financial and fiscal incentives to businesses in them, the legislation seeks to promote economic growth where market forces alone have failed to generate growth and prosperity. The concept is a very challenging one to implement and it is not much easier to explain, actually. The criteria for defining enterprise zones, especially when the entire state is in a recession such as ours is, is not as straightforward as they need to be in this bill. I think more important than that, the state and municipal tax systems in New Hampshire really don't permit us to readily explore the kind of incentives on which enterprise zones, at least as they have been conceived up to this point, depend. By showing preferential treatment to some businesses but not others, this approach to distressed regions may raise some issues of equity. There has been some discussion with economic development officials in Portsmouth and other places about other ways to provide incentives for businesses throughout the state of New Hampshire, particularly in economically depressed areas. That is one of the reasons why we felt it was important to continue to study this issue. Although the committee concluded that enterprise zones did represent a promising approach to local and regional economic problems, there were too many issues that were unresolved in the bill that we still need to resolve for us to take any action. Additionally, Congress is working on enterprise zone legislation as well, and that might provide us with more guidance in terms of the direction we take for incentives.

SB 217-FN, is sent to INTERIM STUDY.

**SB 36-FN-A**, an act relative to special education and making an appropriation therefor. Education committee. Inexpedient To Legislate. Senator Disnard for the committee.

**SENATOR DISNARD:** The Senate Education committee unanimously recommended inexpedient to legislate. It isn't needed. There are other means of accomplishing the same purpose within the budget.

Committee Report Adopted.

**SB 218-FN**, an act relative to higher education benefits for children of public safety personnel killed in the line of duty. Education committee. Inexpedient To Legislate. Senator J. King for the committee.

**SENATOR J. KING:** The committee felt that SB 218 should be inexpedient to legislate because it is covered now by the hundred club and it is also covered by public safety personnel group in Washington 100 percent.

Committee Report Adopted.

**SB 122-FN**, an act exempting towns from the solid waste facility application fee. Environment committee. Ought To Pass With Amendment. Senator W. King for the committee.

**SENATOR W. KING:** SB 122, as amended, exempts one regional solid waste district in the state that has its application already underway, had budgeted the dollars for the application at the time when the department of environmental services changed the rules. The cost of their application went from \$1,000 to \$17,000. This bill merely exempts that one district from paying the full \$17,000. They will only have to pay the \$1,000 that was originally budgeted for the project.

### **Amendment to SB 122-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

exempting certain solid waste districts from application fees.

Amend the bill by replacing all after the enacting clause with the following:

1 Certain Solid Waste Application Fees Deemed Paid in Full. Notwithstanding the provisions of any rules adopted pursuant to RSA 149-M:8, IV(d), any RSA 149-M solid waste district which submitted a solid waste application during October 1990 shall be considered to have paid in full any application fee required by the division of waste



management of the department of environmental services, provided the solid waste district pays the full amount appropriated in its 1990 budget for permit application fees.

2 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill deems any solid waste district application made to the division of waste management, department of environmental services during October 1990 to be paid in full.

Amendment Adopted.

Ordered To Third Reading.

**SB 6-FN**, an act relative to the Pease Development Authority. Executive Departments committee. Inexpedient To Legislate. Senator Currier for the committee.

**SENATOR CURRIER:** This bill required that the Pease Development Authority hire a community relations and communications director who would be responsible for community relations between the Authority and local government, community groups, and the private sector. The Executive Departments committee felt that this was really an unnecessary position to add to the Pease redevelopment authority and therefore recommended inexpedient to legislate.

Committee Report Adopted.

**SB 120-FN-A**, an act establishing a sunset committee and restoring the sunset review process and making an appropriation therefor. Executive Departments committee. Ought To Pass With Amendment. Senator W. King for the committee.

**SENATOR W. KING:** As you may recall we had one other sunset bill come before the Senate that was inexpedient to legislate, because Senator John King and I both introduced sunset bills and we decided to collaborate on coming up with a final solution. The committee is unanimous in agreement that this is a good solution. What it essentially does is recognize that the state of New Hampshire has right now, a process whereby we examine the financial affairs of state agencies through the fiscal audit process. What we don't have is a process whereby we examine the management techniques of state agencies. This bill creates a private and legislative oversight group that takes a look, individually, at state agencies and files a report with management suggestions for each agency. The timetable for it is very similar to the original sunset timetable. In other words, it is done by PAU number and you go through the PAUs and each year a certain number of PAUs are designated and members from the pri-



vate sector, as well as the legislature are appointed to examine the agencies and make some management recommendations about how things might be managed in a better capacity. The committee unanimously urges you to pass this bill.

SENATOR COLANTUONO: Something that I hadn't noticed in committee, Senator King, the appropriation appropriates \$1. Could you tell us what that is for?

SENATOR W. KING: We just took all the money out of the bill. That is why. The way that it was changed, it is unnecessary for us to spend any dollars to do this. This will be done on an all voluntary work as well as utilizing the resources available to legislative committees.

SENATOR PODLES: Senator King, would you be able to tell me if staff will be necessary for this committee? And where is it going to come from?

SENATOR W. KING: Senator Podles, staff will not be necessary except those that are available to the legislative committees already.

SENATOR DELAHUNTY: Senator, don't you think that at a time like this, with the economic times as they are and us looking to possibly furlough employees and make staffing cutbacks, to initiate legislation such as this, which you know and I know is going to create an awful lot of additional administrative work and is going to put an awful lot of pressure on a department and the staffs of various agencies to prepare information for the various audits. That this, in essence, is going to cost an awful lot of money and an awful lot of time and create an awful lot of problems among our people at a time when we can least afford it?

SENATOR W. KING: Senator Delahunt, my esteemed colleague from Salem, I respectfully disagree with you. In fact, if you look at the private sector. It is interesting if you compare the private sector with the public sector how there is this trench mentality that exists within bureaucratic agencies, where they don't like the idea of having somebody from the outside come in and take a look at how they manage their business. On the hand, most businesses are always encouraging that kind of thing to happen, because they want to stay dynamic, they want to be able to run lean and mean. So the idea behind this bill is, in fact, that it won't cost any money because we will be using volunteers from the private sector as well as legislators who earn big bucks, I know, but aren't going to cost any additional money. They are going to go into that agency, work with that agency to come up with some ideas to run that agency more effectively.

SENATOR DELAHUNTY: Senator, I can appreciate what you are saying, but you brought up another point. Don't you believe that it will also take critical energies and time away from legislators who have to get involved in this? And, can you tell me the results of the last sunset review we had and how many actual changes were made after the hundreds of hours and thousands of dollars were spent? How many recommendations may have gone through percentage wise?

SENATOR W. KING: The first thing that I would like to say is the committee, and especially Senator John King and myself, looked at the original sunset process and said to ourselves, what is wrong with this process. Why didn't it work? And from that we took the things that were wrong, and I believe we have removed those things. In other words, amendments can't be added to sunset bills that come through the legislature that add any new personnel, that add any new dollars. It can only be management suggestions that go through the legislative process. So, in fact, we have taken the problems with the original sunset bill, dealt with those, and created a good way for us to come up with some management oversight which is long overdue, since we abolished the sunset process. And we did it without having to spend any additional dollars.

SENATOR ROBERGE: Senator King, do you recall how long ago we had our last sunset process?

SENATOR W. KING: It seems to me that it was four years ago that we abolished that.

SENATOR ROBERGE: It was four years ago and it was abolished. Because it was no longer needed.

SENATOR W. KING: No. It was abolished because there were problems with the process itself, Senator Roberge. I would say that anybody who suggests that it is not necessary for us to regularly review management techniques and management ideals in the state of New Hampshire is making a significant mistake.

SENATOR BASS: I rise in reluctant opposition to the committee position on this bill. As a member of the legislature for six years, and one who was involved in the sunset process on three different committees in the House, I was a strong supporter of sunset in general. However, it became apparent to me, as a result of the process, that a number of less than productive effects were achieved through sunset. Number one, nothing happened and we never did sunset anything except for the nursing board and the chiropractic board. We spent over a million dollars a year on this process and we got that. That is, each year we spent that amount of money. Now the



proposal is being presented here that we are going to have a committee that works for nothing, with no staff, and we are going to be able to be more successful than when we had a professional staff and mandates. I also note here, and I haven't reviewed this bill in depth, that the sunset committee is going to be able to select the agencies that they want to review and I just hate to think what the politics are going to be like in that process. There will be no set program. Agencies won't know whether they are going to be on the target list or not. I find this concept to be somewhat invidious and I hope that the Senate will review this legislation very carefully. It didn't work the first time. I certainly believe in the concept of sunset, but this certainly, in my opinion, does not address many of the concerns that led to the abolition of the program in the first place.

SENATOR W. KING: Senator Bass, would you mind outlining for the committee the concerns that you had about the original sunset process?

SENATOR BASS: Yes, as a member of the ED & A committee in the House and the Judiciary committee, it was my observation that when the agencies came in for sunset, rather than treating it as a review process, they used it as an advocacy forum in which to greatly expand both the administrative as well as the staff structure. And by getting our approval in committee, they were able to then go on with a sort of quasi legislative mandate through the appropriation process. The result was, many of our agencies ended up being considerably more complicated and larger than they were. That change occurred as a result of the sunset review process. I was a fan of it at that time, upon reflection. I have a different feeling now.

SENATOR W. KING: Senator Bass, are you aware that in the amendment that was proposed unanimously by the committee that neither new personnel nor appropriations can be made in a sunset bill? This is the chief objection you just made.

SENATOR BASS: No, I am not aware of that.

SENATOR J. KING: I rise in strong support of this, SB 120. The way these agencies are picked is by the PAU. If you have PAU number 1, you are the first one on the list. And you go right through into the thousands or wherever you go through. If there is a specific need to change your format, that has to be spelled out before you break away from that. The other thing that this does, is prior to this, there was no executive input into it. This takes any new PAU and before it leaves the committee that is responsible for that, it comes out of there as a bill. That follows the same way all the way through the process until it either gets approved by the Governor or vetoed. If it



is vetoed, you go back the same way. Then the agency does not terminate, which is what it did before. In other words, you can just let that thing sit there and that agency would terminate. This bill eliminates a lot of the fear that was placed in the hands of the agencies. As soon as they heard the word sunset review, they figured this is it, they are after me. This doesn't do that. You explain your procedures and you can do three things. You can be suggested to be terminated, you can ask that it be continued, or you can make suggested changes to be followed. All of these things that are the recommendations of the committee, have to be approved by the House, the Senate and the Executive. So there is quite a bit of change between this one and the prior one. There is no money. We all agree on that. So the next best thing you do is try to find some way of doing it without the money. This is one way. We have invited four or eight business people from the community to get involved with some of our Senators and some of the Representatives to see if they can take a look at the thing and do it without any cost to the state or very little if possible.

SENATOR W. KING: Senator John King, would you agree that it is likely that we will get as much bang for our buck by using members of the private sector who know the specific issues of an agency as opposed to using paid employees who are generalists?

SENATOR J. KING: I would hope that we would get more and being a person who ran an agency for the state of New Hampshire, being a person who was interviewed by the sunset review committee, I think it is great. I certainly think that you have a group who is not worried about their own job if they are in the private industry. They are going to come in and ask questions that should be asked, and let things fall as they may and make good recommendations hopefully.

### **Amendment to SB 120-FN-A**

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Sunset. Amend RSA by inserting after chapter 17-O the following new chapters:

#### **CHAPTER 17-P**

##### **JOINT LEGISLATIVE COMMITTEE ON REVIEW OF AGENCIES AND PROGRAMS**

17-P:1 Sunset Committee Established. There is hereby established a joint legislative committee on review of agencies and programs to be known as the sunset committee.

17-P:2 Membership. The sunset committee shall consist of 10 members, 5 of whom shall be representatives, 3 appointed by the speaker of the house and 2 appointed by the house minority leader, and 5 of whom shall be senators, 3 appointed by the president of the senate and 2 appointed by the senate minority leader. Members shall be appointed for their term of office, provided that all members shall be eligible for reappointment so long as they are qualified under the provisions of this section. Members shall be appointed no later than December 30 of the year of their election to the general court, except that vacancies shall be filled for the unexpired term within 30 days of the creation of said vacancy, and the initial appointments under this chapter shall be made within 30 days of the effective date of this chapter. The members shall choose from their number a chairman, provided that the chairmanship shall rotate biennially between the house and senate members.

17-P:3 Meetings and Compensation. The sunset committee shall meet on a regular stated date monthly and at such other times as the chair may call. The members shall not be compensated but shall receive legislative mileage for their attendance at committee meetings.

17-P:4 Duties. It shall be the duty of the sunset committee to oversee the process of review of state agencies and programs as provided in RSA 17-Q. The sunset committee shall annually review the list of agencies and programs exempted from the sunset process by RSA 17-Q:4, and shall recommend to the legislature any amendment to said section the Sunset committee deems necessary.

17-P:5 Committee Sunset. The sunset committee itself shall terminate on July 1, 2000, and shall be subject to review by the appropriate standing legislative committee, at which time the sunset committee shall have the burden of demonstrating a public need for its continued existence as provided in RSA 17-Q.

17-P:6 The committee shall appoint and fix the compensation of such assistants as it needs to carry out its responsibilities and compensate them out of funds appropriated to general court under its own PAU. All appropriations have to be approved in the same manner as is done for all PAU's. The committee is authorized to make such other expenditures as are necessary to carry out its duties under RSA 17-P and RSA 17-Q.

## CHAPTER 17-Q

### LEGISLATIVE REVIEW OF STATE AGENCIES AND PROGRAMS

17-Q:1 Popular Name. This chapter may be referred to as the "New Hampshire Sunset Act."

17-Q:2 Definitions. In this chapter:



I. "Calendar day" means every day of the week including Sunday.

II. "Field review committee" means the committee established pursuant to RSA 17-Q:3 to review each PAU in the field.

III. "PAU" means the program appropriation unit budget number and agency name as set forth in appendix A of the 1991-1992 budget manual issued by the office of business supervision and budget analysis, department of administrative services.

IV. "Sunset committee" means the joint legislative committee on review of agencies and programs established pursuant to RSA 17-P.

17-Q:3 Field Review Committee Established; Purpose; Membership. There is hereby established a field review committee to perform the reviews of each PAU. The members of the field review committee shall be as follows:

I. One member of the senate appointed by the senate majority leader.

II. One member of the senate appointed by the senate minority leader.

III. One member of the public appointed by the senate majority leader.

IV. One member of the public appointed by the senate minority leader.

V. One member of the house appointed by the house majority leader.

VI. One member of the house appointed by the house minority leader.

VII. One member of the public appointed by the house majority leader.

VIII. One member of the public appointed by the house minority leader.

17-Q:4 Review Dates Established. The first review date for an agency program shall be determined by PAU (program appropriation unit), starting with the lowest numbered program appropriation unit and continuing until each program appropriation unit has been reviewed. The sunset committee may change the review schedule of an agency or program to an earlier time, or review an agency or program more than once within a 6-year period if there is sufficient cause for such a change. All agencies or programs established after the effective date of this chapter shall be reviewed in the third and sixth year after such agency's or program's effective date. All agencies and programs shall be reviewed at least once every 6 years. The general court, during the second review, may permanently or temporarily revise, renew or terminate such agency or program.

17-Q:5 Exemptions. The provisions of this chapter shall not apply to the following state agencies and programs:



I. Offices or agencies required by provisions of the New Hampshire constitution.

II. The New Hampshire hospital, the New Hampshire home for the elderly, the state prison, the state library, the veterans' home and the youth development center.

III. The New Hampshire state retirement system.

17-Q:6 Sunset Committee; List of Agencies and Programs to be Reviewed.

I. On or before July 1 of each year, the sunset committee shall submit to the house and senate a list of those agencies and programs to be reviewed that year and a report setting forth the committee of each house which has legislative jurisdiction over that unit. Agencies and programs on the review list not completed during the year shall be placed on the next year's list. All PAU's shall be continued unless changed or terminated as a result of a report from the sunset committee with the approval by the legislator and governor.

II. No new positions, divisions, agencies or appropriations of any kind shall be established by the sunset committee report. However, the sunset committee may assess the workload of each PAU.

III. Upon completion of the report by the field review committee, a meeting shall be held with the head administrator of the agency reviewed to review the committee's report. This meeting shall be conducted before submitting the report to the standing committee having legislative jurisdiction over the PAU.

17-Q:7 Phasing Out of Agency.

I. Any agency which is terminated in accordance with RSA 17-Q:8 shall continue in existence for 9 months following that deadline for the purpose of winding up its affairs. During this period the powers or authority of such agency shall not be limited or reduced. During this period appropriations for such agency shall not exceed the amount appropriated for the final 9 months of the preceding fiscal year. Upon expiration of this 9-month period, said agency shall cease all activities.

II. Upon the expiration of the 9-month period provided in paragraph I of this section for any agency to wind up its affairs, the Sunset committee shall submit appropriate legislation to repeal the RSA statutory provisions relative to that agency or program.

17-Q:8 Renewal Procedure.

I. The review and evaluation outlined under this section shall have the following objectives:

(a) The elimination of inactive entities.

(b) The elimination of entities which duplicate other entities or other governmental programs and activities, or an appropriate consolidation of them.

(c) The elimination of inefficient, unnecessary or ineffective activities.

II. Not later than the third legislative day of each regular annual legislative session, the sunset committee shall submit to the relevant committees of the house and senate, as determined by RSA 17-Q:6, a report for each program appropriation unit scheduled for review during that year. The sunset committee, in preparing the report, shall work in consultation with the relevant house and senate committees. Said report shall include but not be limited to the following:

(a) The law or laws under which such program or agency was created and carries on its activities.

(b) The amount of appropriation for such program or agency for each of the past 6 fiscal years.

(c) An identification of other agencies or programs of state government having the same or similar objectives along with a comparison of the cost and effectiveness of such agencies or programs, and any duplication of the entity under review.

(d) An examination of the extent to which the objectives of the agency or program under review have been achieved when compared to the objectives initially set forth for the agency or program under review and an analysis of any significant variance between projected and actual performance.

(e) The objectives of the program or agency during the next 6 fiscal years, as required by RSA 9:4.

(f) The agency's or program's progress toward applying the benefits, economies, and efficiencies of computer processing to its operations, if and where applicable.

(g) The ratio of workers to management and the number of employees in the field, supplementary employees, and consultants.

III. Upon receipt of the sunset committee's final report which shall include a recommendation for renewal, specific changes or termination, the standing committee to which it is referred shall hold a public hearing no later than the twelfth legislative day, at which the agency shall have the burden of demonstrating a public need for its continued existence. Not less than 14 days after said hearing the committee shall report to the house its recommendations as to the agency. Such report shall include an identification of other government programs having the same or similar objectives, and the recommendation of the committee with respect to the elimination or consolidation of such programs. Whenever a committee identifies such duplication of programs but recommends renewal of the agency under review, the report shall state specifically the justification for such action. The sunset committee shall put the review report in the form of a bill before forwarding same to the respective house or



senate committee. From there on the report in the form of a bill follows the same procedure as any other bill introduced in the house or senate.

IV. After house action on any bill resulting from the committee report outlined in paragraph III of this section, the respective senate committee shall consider the reports of the sunset committee and the house committee, and shall hold a public hearing not later than the thirtieth legislative day. Said committee shall report its recommendations as to the agency not later than 14 calendar days after the public hearing. The report of the senate committee shall meet the same guidelines as set forth for the report of the house committee in paragraph III of this section. If the house and senate cannot agree on the bill, the matter shall be referred to a committee of conference.

V. If one house refuses to pass a bill renewing or revising the agency by the fortieth legislative day, a committee of conference shall be appointed in accordance with house, senate and joint rules. Said committee shall report its recommendations to both houses not later than 5 legislative days after its formation. If both houses cannot agree on the conference committee report, the agency shall be continued and shall conduct its operations in accordance with RSA 17-Q:7. If both houses agree on the bill, it then goes to the governor for his approval or disapproval.

VI. No bill shall renew more than one program appropriation unit identified for review. All committees of both houses are required to report all bills renewing, terminating, or changing agencies to the full house or senate. No bill, resolution, or amendment thereto, changing, terminating or extending any agency, program, or unit, shall be considered in either house until after the standing committee overseeing said agency has submitted the report, required by paragraphs III and IV of this section, to that house. Standing committee can recommend that any PAU report be delayed until other PAU's or all PAU's of a single agency are complete.

17-Q:9 Rights of Citizens and Employees. This chapter shall not cause the dismissal of any claim or right of a citizen against any agency or any claim or right of an agency terminated pursuant to this chapter which is subject to litigation. Said claims and rights shall be assumed by the attorney general. Nothing in this chapter shall interfere with the general court otherwise considering legislation on any agency, program, unit, or similar body. All officers and employees of any program or agency terminated in accordance with this chapter shall be accorded first preference for any available jobs in the state service for which they qualify.



17-Q:10 Effect of Termination on Obligations. If an agency or program shall be terminated pursuant to this chapter when there are outstanding any bonds, notes, bond anticipation notes, debentures, interim certificates or other evidences of financial indebtedness (collective "obligations") issued by such agency or in connection with such programs (a) all duties, functions, responsibilities and rights relating to the payment or securing the payment of such obligations shall pass to the state and be performed by and through the state treasurer; and (b) any property then held by such agency or in connection with such program shall there upon also pass to the state. The passing of obligations and rights in accordance with this section shall not increase or diminish them and the faith and credit of the state shall not thereby be pledged to the payment of any such obligation.

2 Department Appropriation Requests; Reference Changed. Amend RSA 9:4 to read as follows:

9:4 Requests for Appropriations and Statement of Objectives. On or before October 1 prior to each biennial legislative session, all departments of the state shall transmit to the commissioner of administrative services, on blanks to be furnished by him, estimates of their expenditure requirements for each fiscal year of the ensuing biennium for administration, operation and maintenance. In addition, all departments of the state which shall be subject to legislative review under RSA [17-G] 17-Q during the next regular legislative session shall submit a detailed statement of their program goals and objectives during the next 6 fiscal years. In case of the failure of any department to submit such estimates or statements within the time above specified, the commissioner of administrative services shall cause to be prepared such estimates or statements for such department as in his opinion are reasonable and proper.

3 Legislative Budget Assistant Duties; Sunset Review Reporting. Amend RSA 14:31, III to read as follows:

III. Both the audit division and the budget division shall conduct such investigations, analyses, or research into the financial activities and condition or the financial management procedures, or any specific area thereof, of any department, board, institution, commission, or agency, for the information of the legislature, as the fiscal committee shall specifically direct[.], **or as the legislative budget assistant shall deem necessary in order to meet the reporting requirements of RSA 17-Q.** In making any such investigation, analysis, or research, the legislative budget assistant shall have the power to examine whatever accounts or records of, or property or things of value held by, said department, board, institution, commission, or agency the fiscal committee **or, in the case of meeting the report-**

ing requirements of RSA 17-Q, the legislative budget assistant shall deem useful to said investigation, analysis, or research.

4 Higher Education Oversight; Reference Changed. Amend RSA 187-A:2-b, I to read as follows:

I. The general court finds that because of the importance of public higher education, elected officials should be aware of the activities and needs of the university system, exercising their responsibility for legislative oversight through (1) the consideration by the appropriate legislative committees of proposed legislation pertaining to the university system; (2) activities of the university system study committee established pursuant to RSA 187-A:26; (3) the sunset review process adopted pursuant to RSA [17-G] 17-Q; and (4) the consideration of reports filed by the university system pursuant to RSA 187-A:16 and 187-A:22.

5 University System; Reference Changed. Amend RSA 187-A:27, III to read as follows:

III. Whenever the university system is scheduled for sunset review according to RSA [17-G] 17-Q, the members of the university system study committee shall work in cooperation with the house and senate committees as they participate in the sunset process during the year preceding the legislative session in which the university system is scheduled for review.

6 University Report; Reference Changed. Amend RSA 187-A:28 to read as follows:

187-A:28 Report and Recommendations. The committee shall submit a report to the general court by January 15 of each odd-numbered year, except when the university system is scheduled for sunset review pursuant to RSA [17-G] 17-Q. Copies of the report shall be submitted to the governor and council, each member of the senate and the house of representatives, the board of trustees of the university system, and to any other individual or organization as the committee deems advisable.

7 Postsecondary Technical Education Study Committee; Reference Changed. Amend RSA 188-F:39, III to read as follows:

III. Whenever the department is scheduled for sunset review according to RSA [17-G] 17-Q, the members of the department study committee shall work in cooperation with the house and senate committees as they participate in the sunset process during the year preceding the legislative session in which the department is scheduled for review.

8 Vocational Education Study Committee; Reference Changed. Amend RSA 188-F:40 to read as follows:

188-F:40 Report and Recommendations. The committee shall submit a report to the general court by January 15 of each odd-numbered year, except when the department is scheduled for sunset



review pursuant to RSA [17-G] **17-Q**. Copies of the report shall be submitted to the governor and council, each member of the senate and the house of representatives, the board of governors of the department, and to any other individual or organization as the committee deems advisable.

9 Vocational rehabilitation Programs; Reference Changed. Amend RSA 200-C:6 to read as follows:

200-C:6 Access to Records. For the purposes of carrying out program evaluations pursuant to RSA [17-G:5] **17-Q:5**, the director of the staff of the joint committee on review of agencies and programs shall have the power to inspect and make copies of any books, records or files of the division of vocational rehabilitation. The director may inspect all records of the division which are classified as confidential by any of the laws of the state, but shall be required to maintain confidentiality of such records except for the purpose of developing general statistics and evaluations of the operations of state government.

10 Appropriation. The sum of \$1 is appropriated to the joint legislative committee on review of agencies and programs for the fiscal year ending June 30, 1992, for the purposes of this act. The sum hereby appropriated is continuing and shall not lapse. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

11 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill establishes a "sunset law" for the state of New Hampshire and creates a joint legislative committee on review of agencies and programs to oversee the "sunset" process and to conduct an ongoing review of legislative oversight procedures.

The joint legislative committee on review of agencies and programs consists of 10 members.

The review schedule shall start with the lowest program appropriation unit and continue to the highest. All reviews shall be conducted at least every 6 years.

All agencies or programs established after the effective date of this bill shall be reviewed in the third and sixth year after such agency's or program's effective date. During the second review the general court may permanently or temporarily revise, renew or terminate such agency or program.

The sunset committee shall submit each program appropriation unit scheduled for review to the committee of each house which has legislative jurisdiction over that unit. The sunset committee shall submit to each appropriate legislative committee a report of the op-



erations, appropriations and objectives of the agency or program being reviewed and comparisons with similar agencies or programs. The committees shall review the agency or program and recommend termination or renewal of the agency or program. The agency shall have the burden of demonstrating a public need for its continued existence. Any agency which is terminated by the general court shall be phased out over a period of 9 months.

The bill makes an appropriation for the purposes of the sunset act.

Amendment Adopted.

Referred To Finance (RULE #24).

Recess.

Out of recess.

Senator Delahunty in the chair.

**SB 137-FN**, an act relative to the Pease Development Authority. Executive Departments committee. Ought To Pass With Amendment. Senator J. King for the committees.

**SENATOR J. KING:** I rise in support of SB 137-FN. The committee voted that it ought to pass. All this bill does is set up a committee that would give advice to the PDA. It has no vote. All it can do is give advice. It involves the surrounding towns relative to matters that would effect those surrounding towns. I seek your vote in going along with the committee report.

**SENATOR SHAHEEN:** I rise in support of SB 137. Those of you in this Chamber who are from all over the state may ask why the concern over the development of Pease. The pages are passing out to you two maps of the Pease area. As you can see, one of them is a map of the flight tracks of the proposed redevelopment of Pease. One of them is the noise contours of the redevelopment of Pease. I give these to all of you because I think it puts in perspective, for those of you who aren't terribly familiar with Pease and the area around it, where all of the various communities are surrounding the base. I would also like to read to you, if I may, a summary of the environmental impact statement of the proposed action for the reuse of Pease. This is the second of three volumes that are going to be coming out relative to the reuse of Pease. So if it looks like a complex issue, it certainly is. Let me just tell you what the Air Force and the federal government says is the proposed impact of the redevelopment of Pease. They say that by the year 2010 and the plan that we have for redeveloping Pease goes through the year 2010, there will be an in migration of 22,000 people. There will be an employment increase both direct and secondary of 25,900 jobs. Average daily

traffic will increase by 68,000 cars. Water demand will increase by 520,000 gallons per day. Sewage demand will increase by 470,000 gallons per day. There will be increased potential for contamination of the ground water supply. There will be an adverse impact from the emission of 35 tons per day of carbon monoxide. There will be an adverse increase of noise from 107,000 annual aircraft operations exposing 2900 acres to a noise level of 65 dbn or greater. I am becoming familiar with these terms, having dealt with this issue for a while. For those of you who aren't familiar with noise levels, the federal government says that noise levels of 65 dbn or greater, at that level, at least 25 percent of the people find annoyance from the sound, which could be anything from interruption of sleep to an inability to concentrate on your job to an inability of kids to be able to function in school. The legislation which created the Pease Development Authority talks about the regional nature of the development of Pease. Even Senator Dupont, when he commented on the regional nature of Pease in testifying on legislation, pointed out that this is perhaps the most significant opportunity to lead New Hampshire into the 90s. The opportunity is there to develop new industry and to create economic opportunities for the whole seacoast area. The problem that I have with the current composition of the Pease Development Authority is that the Authority does not provide for any regional representation. The only towns with representatives on the PDA are Portsmouth and Newington. The towns in my district, the other towns surrounding Pease, which in some cases are impacted almost as much by the adverse effects of the potential development, have no representation on the PDA. The amendment to 137 is an attempt to address that deficiency. It would create a citizen advisory board made up of representatives from twelve towns surrounding the base. I understand the concerns that have been expressed by those who are worried about a change in the makeup of the PDA. Most of you know that Senator Cohen, Senator Dupont and I have been working for the last several weeks trying to reach a compromise on this issue. That is why I dropped from the bill the section that would have added two more members to the PDA. I don't want to change the direction that the PDA is going in on this development. The citizen committee that is created by this bill would be advisory only with no decision making authority. All I am asking is that we look at the towns that are being affected by the base and give them some opportunity for public input. For those of you who say, why do we want to allow for citizen input into PDA? And we have concerns about that. The question I have for you is why are we concerned about allowing citizen input into what is going on there. If our real concern is that those citizens might say something about the base that we don't like, then I don't think that is a good enough



reason not to allow for citizen input. I believe the citizen board would have several critical roles. First, the board could bring to the PDA their communities concerns about development activity. More important, the board could work in their communities to build the public support that will be necessary for the development of Pease to succeed. Finally, the board would be a very important mechanism to provide public access to information about what is happening at Pease. The bill requires the PDA to provide the citizen board any information available under New Hampshire's right to know law, relative to critical decisions that are being made. The concern for establishing a formal mechanism for public input is not mine alone. The Federal Aviation Administration, in its October 5, 1990 comments on the Bechtel Plan, which is the plan that the PDA is operating on for the reuse of the base, said that "while the qualitative impacts are relatively important, the best method for evaluating qualitative issues is derived from an understanding of the subjective values of the public, rather than from any professional analysis. This is one reason why a well structured, public participation process, which provides representative (and representative underlined by the FAA) feedback from an informed (underlined) public is crucial to guiding major design decisions." The need to expedite the redevelopment of Pease is obvious given our current recession. We can not afford to spend years battling over the appropriate use of the base. We must be able to reach a public consensus on the future of Pease which takes into consideration the concerns of the citizens in the surrounding communities. Even Bechtel, who did the plan for Pease, in the scope of work done on the plan acknowledged "the ultimate acceptance and success of Pease Air Force Base reuse program will depend significantly on the effective integration and use of citizen input into the decisions made concerning the base's redevelopment." I urge you to support this bill which would provide for citizen input.

PRESIDENT DUPONT: Senator Shaheen, one of the things that always comes to mind and I ask the question so the Senate understands that when we start talking about impacts such as what you spoke of, that we are looking way out into the future. We are not talking about aircraft activity that exists today or is likely to exist within the next five years. Is that not true?

SENATOR SHAHEEN: Right. I tried to point out that the plan for redevelopment at Pease goes through the year 2010.

PRESIDENT DUPONT: I would also ask that you answer to whether or not you feel that we, in our negotiations with the PDA, did we not get a commitment from them to try to work in good faith



to try to accommodate some of your concerns, particularly as it applies to citizen involvement both in the traffic issue and in the noise issue.

SENATOR SHAHEEN: They expressed an understanding that citizen input was going to be necessary on those two issues. I think the concern that I had was that the noise study that they are talking about may happen and it may not. And the citizen committee that must be appointed on that noise study is a requirement of the federal government. So that regardless of the intent of the PDA, that will need to happen anyway.

PRESIDENT DUPONT: But you would agree with me that they have acted in good faith in their discussions with us and tried to accommodate those concerns.

SENATOR SHAHEEN: I would agree that they have indicated an understanding of the need to begin to involve some citizens on those two issues.

PRESIDENT DUPONT: I guess I would start off by applauding Senator Shaheen and Senator Cohen because we spent some time on the phone the last few weeks and some time on Saturday sitting down with the PDA, and I think that the three of us share a common goal. And that is the Pease redevelopment effort needs to be successful. That the environment needs to be protected and our citizens of our areas shouldn't bear any undue burden as a result of what happens at Pease. There is no question to any of us that there will be an airport there. That airport is going to impact some of the citizens of our area. But, for the purposes of serving the public good, we need to move forward but also accommodate the public good. I believe the commitment from the PDA was strong. And as I have said to Senator Shaheen on numerous occasions, we have the opportunity to hold their feet to the fire and if they do not, in fact, live up to the commitments that I believe they made, that we will jointly, Senator Shaheen and myself, make sure that noise studies are adequately done and that traffic studies are adequately done and that the citizens of our area have the opportunity to participate. You not only have to focus in on the part 150 study which I believe is a mandatory component of moving this facility forward, but as Senator Shaheen read to you from the environmental impact study of this airport, dictates that noise is a consideration. I think that for anyone to believe that in today's environment, in which the preservation of that environment drives all of the processes on public infrastructure, that it would be foolish to think that any development plan that is going to be put in place at Pease is not going to be done in a manner that is environmentally sensitive. We all agree that both sides, and

there are a very vocal minority that don't want an airport at Pease, that they ought to have the opportunity to participate in the debate about the noise at Pease. I stand here telling you that I also firmly believe that those that are supportive should have that opportunity. And what I want is a fair and representative commitment made that all parties will be involved in that process. I think we have gotten that from the PDA. You know one of the things you need to consider, and I asked Senator Shaheen the question about the numbers that she spoke of, is that the PDA is still in the process of defining what that airport is going to be used for. The market is going to determine that to a certain degree. As we discuss traffic for the base, the first thing the highway department says is what is it going to be used for. These are all future issues that need to be dealt with. I have said this time and time again, that I would be tickled to death if there was an airplane every ten minutes flying over my house from Pease and there was a traffic jam trying to get in and out of Pease. Because for our area that would be good. Because that would indicate that there is, in fact, economic activity taking place within this base. For those who have been down to Pease, you will have to agree with me that what we are ultimately going to have at Pease when the military finally leaves is a deserted facility with a lot of responsibility back on the state's shoulders to ultimately turn that into something that has an economic benefit. The last point that I would like to make and I agree with Senator Shaheen that in fact the PDA may not be geographically appropriate in its makeup, and we had discussions about that but it does represent the communities of Newington, Portsmouth, and I believe there are members from Hampton and Rye on it. There is membership from Rochester, soon to be Durham. And I won't complain when the Rochester person moves to Durham. But ultimately, we tried to balance the state's interest with some local representation to balance the local communities interest. The other point that I would like to make, and I know Senator Colantuono will speak to, is the public good section of PDA language that is in the amendment. What you have in this amendment is the structure that ultimately creates the PDA here and this advisory committee here and the public is down there and they will not know where to go. When you look at this language, the citizen advisory committee does not work with the PDA. They go out on their own and independently take testimony, hold public hearings according to this language. All I am saying is I don't mind citizen involvement. I encourage it. But I do have a problem with it if you are going to create a structure that ultimately does not add to that public participation and, in fact, will hinder the ability of our constituents to have the opportunity to have something good happen at Pease. In closing, I would just like to add that nothing that I say is intended to do anything other than reaf-



firm Senator Shaheen's commitment to make sure that public representation takes place. I feel very strongly that we have the word of the PDA, and I have no reason to doubt their word at this point in time, that they will perform as they have indicated to the three of us and, in fact, have given my word to Senator Shaheen that if that does not happen, I will join her on this floor in forcing the hand of the PDA to recognize that public commitment. With that I will end my remarks and I thank you for this opportunity.

SENATOR HEATH: When I first joined Senator Shaheen on this bill, I did so because it seems to me that it is the mildest form of advisory committee, the mildest form of oversight of a process that had built in, through statements in the press and some actions, a certain amount of suspicion and distrust. And it seemed to me that if this project lay just outside my district that I would want to come around and call on the rest of you for some help in getting some local input into the process. We do this all over the state of New Hampshire in many forms. But since then, and I didn't know at the time, we took Rochester airport, which is a state owned, the only state owned local airport, and this body turned the local body into the control of the airport. The state pays the bills, but it is a very local centered body, this session, we created to oversee that project. I don't see what harm giving the public one more avenue to get their input into an impacted area is going to do. I don't know why anybody could object to this. The argument that "the public will not know where to go because there is both an authority and an oversight group", I don't believe the public is that ignorant. The public knows when it has a problem, where to go or it usually finds out and seeks out those in authority. And this gives the public the opportunity to do that. All of us from time to time are going to have things that impact our district that are not exactly, physically, in our district. Camp Success is going to land in Senator Fraser's district and bring all the drug dealers into the northern part of his district. If something goes wrong there, they are going to land in my district in about ten minutes. I have a concern. My district has a concern. They want to know what is going on in that situation. I might be in here asking you for help on something, should that transpire. I think you should all look at your hearts and your minds and see if this isn't really something that cries out for justice and is a very mild form of allowing the public some input on something that is going to have a horrendous impact in that area. And put political considerations aside and vote for this on its own merits and on the fact that it lacks any harm and has a great deal of merit in terms of giving the people a chance to rebutt the kinds of statements that Henry Powers made,



that the reason they call it an authority is that it is an authority and not a democracy. Vote for this as a strike for democracy and I would urge you take that step.

SENATOR COHEN: As most of you know, Pease occupies a very unique and central position within the very heart of my Senate district. The air base itself is entirely contained within Senate District 24. No question, it will have an impact beyond District 24, but it most directly impacts my district. It will also impact the entire state of New Hampshire as well as Maine. Its closing, the Air Force base, has had a tremendous negative impact on the economy of Senate District 24. There has been a tremendous loss of jobs. What is now a deathly quiet air base, has tremendous economic potential. A survey done last election by a group that opposes rapid development of the base, found 85 percent of the people they asked felt that there was nothing going on at Pease. That tells me something. People want something going on at Pease. They don't see anything happening. They don't want it slowed down. They want something to happen there. They want jobs. And I want jobs. I have to represent my people. The sentiment of my district is clear. Bring the jobs back. Yes, of course, be sensitive to the community and to environmental concerns, as I believe the Pease Development Authority has been. But the people want it to get going. Pease, no doubt about it, is the biggest issue within my district. I am the Senate liaison to Pease. And I take that job very, very seriously. The Pease Development Authority has only been in business for eight months. The Pease Development Authority is listening. They have taken a tremendous amount of citizen input. Face to face with the people. Not through any bureaucracy, but going directly into the communities. I can't tell you how many communities they have gone into, listening hours and hours to the people. And they are, in fact, listening. It is also a fact that before the Pease Development Authority was the authority, there was the Pease Redevelopment Commission which had 48 members. They helped shape and define the direction of the Pease Development Authority. I certainly believe that affected towns like Dover, Durham, Greenland and others that are not now represented deserve to be heard. But as Senator Dupont suggested, there have been recent meetings between myself, Senator Dupont, Senator Shaheen and members of the Pease Development Authority, and they went the extra mile. They agreed to support creation of a 50 member community advisory board under the part 150 federal grant. They agreed to have members of that committee appointed with participation by myself and Senator Shaheen. Those are the results we want. Those are the results that we can get. That community advisory board will address the one central concern of the com-

munity which is noise. There will also be, if the department of transportation gets the funding, a study of traffic, which has been the other concern. That, too, will involve a community advisory board. However, I strongly believe that a free ranging community advisory board as proposed by 137-A would by its very nature, slow things down. Without a focus, members of such a board would continually find fault. A community advisory board focused on noise, however, will be positive, focusing on noise control solutions. The PDA's assurance of the creation of this committee successfully addresses the problem of lack of representation from the abutting towns, and the community concerns regarding noise. Most support what the PDA is trying to do. They recognize that they do indeed listen, and are acting according to the dictates of the legislation that was created just last year. They have been open to communities and they have had judicious use of executive session, which is, of course, essential to bringing in new jobs. I would like to suggest that someone move to lay this on the table. This will give the PDA a chance to further demonstrate their commitment to be good citizens of our community. By tabling the measure, I believe that we, in the Senate, would reserve the right to pull the bill off the table at the end of the session. By tabling, we will make sure that it will be an effective community advisory board.

SENATOR HEATH: It seems to me, arguing for someone to table this and making the argument is a bit unfair in stretching the rules.

SENATOR COHEN: No doubt, there are good intentions within SB 137-A. I certainly applaud those intentions. But now is not the time. The problem is the scope of the legislation. It has some real problems in it, which I believe Senator Colantuono may address concerning noise abatement procedures, limitation of hours of operation, capacity limitations. I want to tell you that I got some information that, as some people know, Airbus is a potential client at Pease Air Force Base. They are also looking at Duluth. I had a report that they are very well considering moving to Duluth where the city would provide a \$5,000,000 subsidy. They may be in a situation where perhaps they may be exercising their engines perhaps beyond hours of limitations and I believe this would provide good jobs and would limit the noise. But part of this language would, unfortunately, limit their, the PDA's and our communities, chances of getting a good client like Airbus into our area. I would conclude by suggesting that old language in the original bill and the Authority shall have as its concern, the impact of the closure and redevelopment of Pease Air Force Base on the economies, environment and quality of life in the affected communities, the seacoast region and the state. And that the Authority shall at all times act in a manner which is consistent



with the public good is a good definition and one that we can live with. The people of my community are very clear. There was an article in yesterday's Portsmouth Herald, an editorial, calling for a super salesman needed for Pease to market this base and get jobs here now. That is what people are most interested in and that, I believe, is the direction we need to go. Keep it face to face. We don't need this particular piece of legislation at this point in time.

SENATOR SHAHEEN: Senator Cohen, isn't it true that the PDA must get consent from the Federal Aviation Administration in order to apply for a part 150 study?

SENATOR COHEN: This is correct.

SENATOR SHAHEEN: And isn't it also true that they have not gotten that consent from the FAA?

SENATOR COHEN: They haven't gotten it as yet. They have started the application process and they fully expect to get it very soon.

SENATOR SHAHEEN: And isn't it true that as part of that process, they are required to appoint a citizen committee?

SENATOR COHEN: Yes they are. They are not necessarily required to consult with either you or I on that. But they need to do that.

SENATOR HEATH: Senator Cohen, what is the language that you think would drive potential customers away that is in this bill?

SENATOR COHEN: Specifically, limitation of hours of operation and capacity limitations. I think that could be a problem area.

SENATOR HEATH: That is essentially the extent of your complaint?

SENATOR COHEN: Not my complaint on the legislation. But you asked specifically what might drive potential clients away.

SENATOR HEATH: You talked about an advisory committee under the federal regs. And so it isn't an advisory committee per se that you seem to object to. And you talked about input, so it isn't input that you specifically object to. I am trying to focus in on where your objection lies and it seems to me that talking about the hours is the extent of it. Can you correct me?

SENATOR COHEN: That isn't it at all. The hours of operation and capacity limitations could possibly deter good clients such as Airbus. What most concerns me is a free ranging, without definition, com-

munity advisory board which inherently acts to raise questions and to raise doubts, and to slow things down. I think it is part of its nature, if it is not defined by traffic or noise.

SENATOR HEATH: Senator Cohen, free ranging debate in an advisory capacity frightens you?

SENATOR COHEN: It doesn't frighten me. None of this frightens me particularly. I don't think it is particularly useful and I don't think the people of my district support that.

PRESIDENT DUPONT: Senator Shaheen, I just wanted to ask you two other questions. Would I be fair in saying that primarily the citizen concern that you are hearing is in the area of airport noise and environmental concerns related to aircraft traffic and also ground transportation issues? But primarily that is the focus?

SENATOR SHAHEEN: While I would agree that the majority of concerns that have been expressed have been on the issue of noise, I would also point out that the issue of traffic has been a major one for the people in my area. The city councils in both Dover and Rochester have both expressed concerns about the economic impact about Pease and how it would effect economic development in their cities. The environment, particularly given the recent state proposal to set up a state park instead of the wildlife refuge at Pease, is something that has generated a lot of comments. I would agree that you are correct that noise is the issue of highest concern, but I think there are a number of other issues that are of concern as well.

PRESIDENT DUPONT: Senator, would you believe that if, in fact, the FAA does not give them the money to do the part 150 study that you may be voting to appropriate that money at some point in time, so that the noise study can be done?

SENATOR SHAHEEN: I would guess that that might come before the legislature.

SENATOR PRESSLY: I rise in support of the redevelopment of the Pease Air Force Base. I want it to be done efficiently, effectively and I support that. I also wish to speak in support of the airport. I am a little bit confused as to how this bill has suddenly been converted to the airport, because I don't think that that is the question. I think we all know that there is an airport there and there will be an airport in the future. I do rise also in support of the advisory board, and therefore, I support this bill. During this session, as we talk about the vision of the state of New Hampshire, many people and many bills have been focusing on a transportation network, how to get the state going again, and the future. In practically every discus-



sion, the Pease Air Force Base is part of that. And for us to ignore that is, I think, absolutely foolish. I am absolutely surprised and bewildered why I hear this fear of an advisory committee. If you stop to think of the Senate structure, we divide up into committees. And basically, our committee structure gives advice to the full body. Sometimes we take it, sometimes we don't. But the whole name of the game is to get in groups and talk about the issue openly and actively. I also feel that an advisory committee would, in fact, serve as part of the P.R. and the marketing which we have heard some reference to. I come from a city and I represent a district with cities and towns that actively use advisory committees on a regular basis. And from the experience that I have seen, the advisory committees come forth with some of the best ideas. They become advocates for the project and they do, in fact, provide a true marketing resource for the whole project. So I am voting and I intend to vote for total access, full disclosure and certainly the advisory committee concept in the development of what I think is one of the major resources for the whole state.

SENATOR ST. JEAN: Senator Cohen, I listened to you answer Senator Heath's questions. I come from Manchester and I have no axe to grind on this particular piece of legislation. Your objections were a couple of different lines that dealt with the manner which is environmentally sound, which provides for noise abatement procedures, pollution control, limitation of hours and things of that nature that you find the most objectionable in this piece of legislation. Senator, if we were to take out those lines and those words, then could we have your support on this particular piece of legislation?

SENATOR COHEN: I am sorry if I didn't make myself clear on that. My concern on that is that that particular language may affect potential clients. My concern and disagreement with this particular bill is not solely based on that. That is a part of it which I am not particularly happy with. But that is not the entire thing.

SENATOR ST. JEAN: Could you tell me the other parts that you find objectionable, Senator?

SENATOR COHEN: If we didn't have an agreement with the Pease Development Authority, if they were not applying for the part 150 federal grant, and if they were not willing to work with us and create community advisory boards specifically dealing with noise, it would be a very different story right now. But that isn't the situation. I don't think it is needed at this time. I think if somebody should make a motion to lay it on the table at some point, that I believe provides us a sword of Damocles, hanging just in case they don't perform as

good citizens within our community. Then we have the ability to pull it off of the table and create it then. But I think we ought to give them a chance.

SENATOR ST. JEAN: As I look at what was passed out about the redevelopment future flight tracks, if I am not mistaken, Senator, there is one flight path that would go over Portsmouth and the rest would go over other Senator's districts. Do you think that is a valid cause for concerns for Senators Shaheen and Hollingworth?

SENATOR COHEN: Absolutely, and it is a concern that I have raised as well, and I want to make that sure that it is, in fact, addressed.

SENATOR HEATH: Question of the chair. If something is laid on the table today, and we pass a crossover date, what happens to that legislation which is on the table after we go by that crossover date.

SENATOR DELAHUNTY: It depends upon the resolution that the body may adopt in the future.

SENATOR HEATH: Is it very likely and traditional that the vote to put it on would be a majority vote. The vote to take it off would be two thirds or three quarters?

SENATOR DELAHUNTY: A simply majority.

SENATOR HEATH: A simple majority to put it on but a super majority to take it off after crossover, is that not correct?

SENATOR DELAHUNTY: We haven't adopted rules yet, Senator.

SENATOR HEATH: What is the likely date that we will see crossover in this body?

SENATOR DELAHUNTY: If we adopt joint rules, the last day will be April 11.

SENATOR HEATH: Senator Cohen, do you think that April 11 is a date that is sufficient to leave our concerns of holding this over their heads down there for any purpose. You suggested in what you said in answer to a question, that if we put this on the table, it would be laying there and we could pull it off the table, if they didn't behave. Do you think April 11th is sufficient time to hold this terrible swift sword over somebody's head?

SENATOR COHEN: I don't know how swift it would be. My understanding was not that it was April 11. My understanding was that after the session, I thought we could bring it up then. That was my intent.



SENATOR DELAHUNTY: There are no joint rules and we have not adopted any deadlines as of this moment.

SENATOR HEATH: Would you believe that if you put it on the table, it would not be there very long?

SENATOR COHEN: I would hope that that would not be the case.

SENATOR HOLLINGWORTH: I rise in support of SB 137. I do so for many of the reasons that have already been stated, but primarily for the reason that I heard Senator Dupont rise for. That he shared the common good and concerns of Jeanne and Burt. But I say that the common good of those three people before the board are not only the people who have reason to be concerned. It is the whole state of New Hampshire. Because what happens to Pease will be important to all of us. I am speaking primarily to what has happened to the right to know and the input of the public. That is why I am standing in support of this legislation, in passing this legislation. Because the most important mechanism in this legislation is that the public will be informed and will be informed on the important decisionmaking process. They will not have any vote. They will not have the ability to delay. They will not add any cost and there are no smoke screens. What they will do is make sure those private citizens who are sitting on the board, who have some involvement in companies and businesses and who are proposing to buy, or rent, or lease some land at Pease will adhere to the public and it will be done in the public light. It is more important that they be held to that. Because we, as elected officials, know how important our decisionmaking processes are in the light of day. Unfortunately, sometimes those people who are not elected and know that the public may not re-elect them do not have the ability to know that they are conducting the public's business at the public's cost. This Pease Authority Board is paid for by the citizens of this state. They have the right to be informed and to know what is happening with their money, and with what is their property. All the people of this state. When I asked certain members why they didn't want to go along with this amendment that would cause no harm, I was told the Pease Board did not want it. They wanted it killed. They wanted it dead. And then the suggestion was, well table it. I say to you after my many years in the Legislature, I know what table is, folks. It is dead. It is killed. So the PDA board will get what it wants, if we vote that way. We will kill it and we will do what the PDA board wants. Why would they want this, I keep asking myself. What are they afraid of? Why don't they want the public to know what they are hearing? What is going on behind closed doors? I am sure you are asking, those of you who aren't in my district, is there a problem? I can tell you there is. I have only a few

clippings. "Pease Panel session most in secret" "Politics at Pease" "It is no helping sign that the private business that now dominates the Pease Development Authority." "Second time in a row, Pease panel meets, mostly behind closed doors." "Too much of Pease Redevelopment happening in private." It is wrong to keep Pease Development costs estimate secret so long, since that is money we are paying. "Some Pease progress and a preponderance of executive sessions." "Closed door team may disband because they didn't want to meet the right to know." "EPA administrator walks out of Pease Authority meeting, because he didn't know it was going to be an executive session." "Pease panel meeting violates open meeting law." "A strong right to know, why the Pease secrecy?" But there was one other side. There was one copy I found that says, "Area must trust the Pease group." Interestingly enough it was written by Henry W. Powers, Pease Development Authority. He said, "I don't believe the PDA will give away the farm. Neither do I believe the PDA will rush into any development just for the sake of doing something. Nor are we asking you for blind trust." That you are if you go behind closed doors. Then he goes on to say, "However, your faith and trust in the Authority must prevail." I don't know. I have been in the process so long, I guess I am tainted. I would like to trust them, but unfortunately, any time the people didn't adhere to the right to know, there was a good reason. Any time there were doors closed, there was a good reason. I am saying that we are asking only that the doors be open and the public be aware of what is happening behind those doors. This vote on this legislation is exactly that. Opening the doors, so the public's business will be done in the public's eye. I ask you to support this legislation and will be calling for a roll call.

SENATOR CURRIER: Senator Hollingworth, it sounds to me like you have opened the door on another problem with the Pease Development Authority that really doesn't address the advisory group. Because as I understand it, if the problem is the Pease Development Authority's improper use of the right to know law in terms of executive session, then would not, under the language in the amendment, the advisory board be excluded from those executive sessions and thereby not accomplish what the intent of the amendment is?

SENATOR HOLLINGWORTH: That is not correct, Senator Currier. In this bill there is a mechanism in which the advisory board would be made privy to those important decisions that would be made, under the right to know.

SENATOR COHEN: Senator Hollingworth, do you believe the Pease Development Authority has not been acting according to the mandate of the legislation which is to act in the public interest?



SENATOR HOLLINGWORTH: I wouldn't know, when they go behind close doors. Would you?

SENATOR COHEN: Do you not believe that the Pease Development Authority has the right and indeed a responsibility to go into executive session when they are discussing client negotiations?

SENATOR HOLLINGWORTH: Yes, they may go into executive session, just like any other group. But it is important when they do, they state their purpose and reason why. The other night there was a meeting where they went into executive session for two hours. Another night they went in for three hours. There was only a half an hour conducted in the public eye, with no explanation as to why they went into executive session. I am not saying that the Pease Authority Board has not done a good job. What I am saying is, if they continue this process, we have no way of knowing whether they are doing a good job. It is casting a doubt in people's minds about whether they are conducting the public's business in the best interest of the public. All that they do, no matter how much good it is, if it is done in private and secrecy, it is casting a shadow on their good work.

PRESIDENT DUPONT: Senator Hollingworth, would you believe that there have been questions posed to the PDA about the executive sessions that they hold, and that, in fact, a member of the Attorney General's office has been at every one of those sessions and, in fact, has advised the PDA whenever discussions move away from the area for which they went into executive session on, and in fact, their discussions do comply with the right to know law?

SENATOR HOLLINGWORTH: That may well be. But unfortunately, the public doesn't know that and I think that is why it is important. I think anytime a decision is made so that the public can be made aware, then that is what is happening, it is an important element. It is not whether they are adhering to it exactly, but if you would let the advisory board know why the decision has been made. The best decisions are made with openness and the ability for people to be informed.

PRESIDENT DUPONT: Senator, but you do agree that even though they have executive sessions, they may be complying with the right to know law?

SENATOR HOLLINGWORTH: They may be.

SENATOR COLANTUONO: I rise to explain why I was one of the two members who voted against this legislation in the committee. I would like to focus the attention however, not on the advisory com-

mittee, because I really don't have too much of a problem with the advisory committee or board. But to focus attention on the other important, separate part of this bill, and that is the part of the bill contained on the bottom of page 14 and the top of page 15, which amends section 6, roman numeral II, which redefines the public good under this law. The current statute, which was just passed last year by this body, and only went into effect on June 1, simply states that the Authority shall at all times act in a manner which is consistent with the public good, and pursuant to this chapter shall seek to implement the comprehensive plan for the conversion and development of Pease, which basically refers to the Bechtel plan. What this bill does, and the part of the bill that I object to, is it defines the public good by stating that it must be in a manner that generates high quality employment opportunities in a manner which is environmentally sound and which involves provisions for noise abatement procedures, pollution control, limitation of hours of operation, and capacity limitations. All of which must protect the environment and quality of life of the affected communities of the seacoast region. What this does is change the standard under which the Pease Development Authority must work. So the first effect, if this is passed, will be the Pease Development Authority will have to forget about all the work they have done and restart, start all over under this new standard, to make sure they are complying with it. Because the important distinction that you all need to appreciate and understand is that this is not simply a statement of purpose at the beginning of the legislation. This is positive law which the PDA must adhere to and which can be enforceable in a court of law, if they don't adhere to it. Therein lies the problem and why I think this language can be considered a Trojan horse in this piece of legislation. Because it wasn't really necessary to create the advisory committee. There is no question about the fact that there is going to be a lawsuit over the redevelopment of Pease. And, the people who are going to bring the lawsuit are going to be the people over in that area who do not want it to become an airport of any kind. What this language does is gives those people, that constituency, a tremendous weapon to use in that lawsuit in a court. I have a great fear, because I agree with the people who say that the Port of Portsmouth, Pease and Manchester are the three crown jewels in our economic development scheme and we ought to do everything we can to improve them and start generating jobs. But, if this language passes, a law suit is going to be started, either in the state or federal court, and probably in the federal court, because we are talking about the FAA and public benefit transfers and so forth. And we are going to throw this whole mess into the lap of a judge, probably a federal judge, who is going to have to interpret what the PDA does, against this very ambiguous lan-



guage. And, it provides all sorts of arguments that lawyers for the group opposing the airport to use, to nitpick every single thing the PDA does. They can challenge whether the noise abatement procedures are adequate, whether the pollution control is adequate, whether the limitation of hours of operation are adequate. And also, whether they agree with all of them, they can challenge whether they adequately protect the environment and the quality of life. Quality of life is about the broadest standard you could ever put into any kind of legislation. Because no one can define it. Basically, what you are going to be doing, if you pass this legislation with these words in it, is putting the fate of Pease into the hands of a single judge. I know there has been a lot of problems the last half of this century about legislating by the judiciary. It has created a big mess in all kinds of areas in our country. And I don't think we should be adding to it. For some reason, I started getting letters about this issue some weeks ago. I found out that I was the only one on the committee getting them. But the letters basically said, please support Senator Shaheen's bill on the mandate oversight, and control of Pease Development Authority. That was fine. They were all a form letter, except one person slipped up and said "P.S. Please no cargo planes at Pease." That tells you what the agenda is of the people who want this language written into the law. It is a weapon to be used by their lawyers, when the inevitable lawsuit comes. I think, if you care about jobs at Pease, this language is going to be what will prevent that from happening.

SENATOR SHAHEEN: Senator Colantuono, I don't know if you are aware that my husband is an attorney.

SENATOR COLANTUONO: I am well aware of that.

SENATOR SHAHEEN: And having spent a lot of time with attorneys over the years, I know that attorneys can generally look at the law and find reasons to sue.

SENATOR COLANTUONO: Absolutely. That is my point.

SENATOR SHAHEEN: Would you also believe that I worked with an attorney in drafting this section of the bill?

SENATOR COLANTUONO: That is also my point.

SENATOR SHAHEEN: And they didn't have the same kinds of concerns about the wording of it that you have just expressed?

SENATOR COLANTUONO: I am sure they didn't.

SENATOR HOLLINGWORTH: Senator Colantuono, if we moved this moment to strike that objectionable language, or the language you think is objectionable, from the bill, would you then be willing to vote for it?

TAPE INAUDIBLE.

Senator Currier moved the question.

Adopted.

Recess.

Out of Recess.

Senator Currier moved the question.

Adopted.

### Amendment to SB 137-FN

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Declaration of Purpose. Amend RSA 12-G:1 by inserting after paragraph III the following new paragraph:

IV. The general court further recognizes that the ultimate acceptance and success of any development of Pease Air Force base will depend significantly on the effective integration and use of citizen input into the decisions made regarding base redevelopment. It is the intent of the general court that public participation in the redevelopment process be encouraged and that the Pease citizen advisory board actively participate in the redevelopment process.

2 New Paragraph; Definitions. Amend RSA 12-G:2 by inserting after paragraph V the following new paragraph:

V-a. "Citizen advisory board" means the Pease citizen advisory board established under RSA 12-G:6-a.

3 Pease Development Authority; Duties. Amend RSA 12-G:6, II to read as follows:

II. The authority shall at all times act in a manner which is consistent with the public good, **as defined herein**, and pursuant to this chapter shall seek to implement the comprehensive plan for the conversion and redevelopment of Pease Air Force Base identified in paragraph I. **For the purposes of this section, "the public good" means the redevelopment of Pease Air Force Base in a manner which generates high quality employment opportunities in a manner which is environmentally sound and which involves provisions for noise abatement procedures, pollution control, limitation of hours of operation and capacity limitations which protect the environment and quality of life of the affected communities and the Seacoast region.**

4 New Section; Citizen Advisory Board. Amend RSA 12-G by inserting after section 6 the following new section:

12-G:6-a Pease Citizen Advisory Board Established; Duties.



I. There is hereby created the Pease citizen advisory board to carry out the intent of the general court as expressed in RSA 12-G:1, IV.

II. The citizen advisory board shall consist of 12 members. The governing bodies of the cities and towns of Dover, Durham, Lee, Madbury, Newmarket, Portsmouth, Newington, Rye, Greenland, Hampton, North Hampton, and New Castle shall each appoint one member to the citizen advisory board. Members must be residents of the city or town from which they are appointed. Members shall be appointed for terms of 3 years. Members may be removed from office for cause after hearing by the municipal appointing authority. The members shall adopt bylaws for the conduct of the affairs of the citizen advisory board.

III. The citizen advisory board shall solicit public comment and advise the authority on all material matters relating to the duties and powers of the authority delineated in this chapter. For the purpose of this paragraph "material matters" mean:

(a) The enactment of land use controls pursuant to RSA 12-G:10.

(b) The exercise of any powers pursuant to RSA 12-G:7, provided the sum involved in the exercise of said powers exceeds \$50,000 per act.

IV. The citizen advisory board shall have access to all information available under New Hampshire's right to know law which will assist the citizen advisory board in carrying out its duties and powers.

V. The citizen advisory board shall provide the authority with written recommendations on any material matters which are subject to a formal vote by the authority. No vote regarding a material matter may be taken by the authority without supplying the citizen advisory board with a minimum of 10 days advance notice thereof. The recommendations of the board shall be advisory only and shall not be binding on the authority.

VI. Appointments to the committee shall be made within 30 days of the effective date of this section, and the first meeting of the committee shall be held within 60 days of the effective date of this section. The committee shall elect a chair at its first meeting.

5 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a Pease citizen advisory board to advise and make recommendations to the Pease development authority. The citizen advisory board shall consist of 12 members appointed by Seacoast cities and towns.

This bill also requires the Pease development authority to seek to redevelop Pease Air Force base in a manner which will (1) generate high quality employment opportunities; (2) protect the environment; and (3) improve local and regional transportation systems.

Senator Blaisdell moved to have SB 137-FN, LAID ON THE TABLE.

Adopted.

SB 137-FN, is LAID ON THE TABLE.

**SB 163**, an act relative to the owners of manufactured housing parks. Executive Departments committee. Inexpedient To Legislate. Senator Pressly for the committee.

Recess.

Out of Recess.

Senator Dupont in the Chair.

**SENATOR PRESSLY:** It was the committee's view that this bill, at this time, be voted inexpedient to legislate, primarily because there is another bill, SB 205 that there is a hope that this issue will be addressed in.

Committee Report Adopted.

**SB 176-FN**, an act relative to ophthalmic dispensing. Executive Departments committee. Ought To Pass With Amendment. Senator Currier for the committee.

**SENATOR CURRIER:** This probably was one of the most comprehensive reviews and negotiated bills that the Executive Department faced this session. The amendment has almost full agreement with all of the parties involved. I am sure most of you remember that we dealt with the 3 levels in the past. This bill and the amendment on page 15 now addresses some of the concerns that were outlined by the various parties and the committee. The committee report is ought to pass with amendment.

**SENATOR NELSON:** I just couldn't hear, Senator Currier, too well and I was wondering specifically on the amendment. Would you kindly just give me another view of what that amendment is doing?

**SENATOR CURRIER:** I will try. Some of the language in the bill deals with the designation and the training and certification as opposed to registration dealing with eye contact lenses. It was a very complex issue. We dealt with the medical society, the ophthalmic dispensers and various lobbyists with regards to those different groups in coming up with language that was satisfactory to the majority of those groups.



SENATOR NELSON: Did any ophthalmologists testify on this bill? And if so, what was their feeling about this legislation?

SENATOR CURRIER: I would have to go back to the committee records to determine who actually spoke.

SENATOR NELSON: What I am trying to get at here is, are we giving these opticians a much broader scope of responsibility than we have in the past?

SENATOR CURRIER: No, we are not. We, basically, are adding certification along with the letter of designation, and continuing education credits and so forth. Registration we passed the last session of the legislature. Unfortunately, because the Board of Registration of medicine is under their authority, they have not at this point gotten the administrative rules to the administrative rules committee process. So registration did not, in fact, take place.

SENATOR NELSON: Am I to understand you that what is happening is ophthalmologists and optometrists would still continue to prescribe the contact lenses, the opticians who used to just make them, we are now giving them license to put them in the eye, when they only made them before?

SENATOR CURRIER: Only those who were specifically designated by this letter of designation would be allowed to still fit contact lenses.

### **Amendment to SB 176-FN**

Amend the bill by replacing all after section 1 with the following:  
2 Definitions. RSA 327-A:1 is repealed and reenacted to read as follows:

I. "Board" means the board of ophthalmic dispensing established by this chapter.

II. "Certified optician" means anyone who practices ophthalmic dispensing as defined in this chapter and who is certified by the American Board of Opticianry.

III. "Certified contact lens optician" means anyone who has successfully completed the National Contact Lens Examiners' written examination and 2 semesters of clinical contact lens training from an accredited school.

IV. "Fitting contact lenses" means measurement of the shape of the eye, as well as determining the lens specifications, including base curve, size, shape, thickness, color, and material composition.

V. "Ophthalmic dispenser/optician" means anyone who sells or dispenses, upon prescription, spectacles, eyeglasses or contact lenses.

VI. "Ophthalmic dispensing" means the design, verification, and delivery to the intended wearer of lenses, frames, and other specially fabricated optical devices upon prescription. It includes, but is not limited to, prescription analysis and interpretation; the taking of measurements to determine the size, shape, and specifications of the spectacle lenses, frames, or lens forms best suited to the wearer's needs; the preparation and delivery of work orders to laboratory technicians engaged in grinding lenses and fabricating eyewear; the verification of the quality of finished ophthalmic products, the adjustment of lenses or frames to the intended wearer's face; the delivery of such ophthalmic products including instruction in hygiene and insertion and removal of contact lenses; and the adjustment, replacement, and reproduction of previously prepared ophthalmic lenses, frames, contact lenses, or other specially fabricated ophthalmic devices. It does not include the alteration without permission of the prescriber of any prescriptions, nor does it include the fitting of contact lenses which may only be performed by ophthalmologists or optometrists pursuant to law regulating such practices, unless the ophthalmic dispenser is in possession of a statement of delegation authorizing the fitting of contact lenses.

VII. "Prescription for contact lenses" means a dated and signed, written or oral direction not more than 6 months old for daily wear or extended wear contact lenses from an ophthalmologist or optometrist which includes the power, size, shape, thickness, curvature, color, and material composition. The oral prescription must be recorded and kept on file for one year by the ophthalmic dispenser.

VIII. "Prescription for spectacle lenses" means a dated and signed, written or oral direction not more than 24 months old from an ophthalmologist or optometrist for therapeutic or corrective lenses which states the prescribed refractive power and when necessary, the vertex distance, cylinder axis, and prism. The oral prescription must be recorded and kept on file for one year by the ophthalmic dispenser.

IX. "Statement of delegation" means a written, signed statement from the prescribing ophthalmologist or optometrist which authorizes a named ophthalmic dispenser to fit the prescription for contact lenses. The statement shall be written on the prescription for contact lenses or shall be a letter which shall be attached to the prescription for contact lenses.

3 New Section; Certified Contact Lens Opticians. Amend RSA 327-A by inserting after section 2 the following new section:

327-A:2-a Certified Contact Lens Opticians. To be a certified contact lens optician and eligible to fit contact lenses as defined in RSA 327-A:1, IV and only with a statement of delegation, a person shall be certified by having successfully completed the National Contact



Lens Examiners' written examination and 2 semesters of clinical contact lens training from an accredited school and shall have a statement of delegation authorizing the fitting of contact lenses. The certified contact lens opticians shall be able to perform the duties of any person registered under this chapter pursuant to RSA 327-A:2.

4 Change from Director and Division to Board. Amend RSA 327-A:3 to read as follows:

327-A:3 Application for Registration. An application for a certificate of registration for ophthalmic dispensing under this chapter shall be filed with the [division] **board** in such form and detail as the [director] **board** shall require in accordance with rules adopted under RSA 541-A, shall be duly signed and verified, shall be available for public inspection, and shall include, but not be limited to:

5 Board Established. RSA 327-A:4 is repealed and reenacted to read as follows:

327-A:4 Board; Duties; Rulemaking.

I. There is established the board of ophthalmic dispensing, which shall be composed of one person registered pursuant to this chapter, one certified optician to fit contact lenses certified pursuant to this chapter, 2 certified opticians certified pursuant to this chapter, and one public member, who shall be appointed by the governor with the consent of the council.

II. The board shall elect a chairman from among its members.

III. Appointments shall be for 3-year terms, but no person shall be appointed to serve for more than 2 consecutive full terms.

IV. The board shall meet at least twice a year.

V. Members of the board shall be entitled to reasonable travel and other expenses incurred in the execution of their duties.

6 New Section; Board Administratively Attached. Amend RSA 327-A by inserting after section 4 the following new section:

327-A:4-a Board Administratively Attached. The board shall be administratively attached, pursuant to RSA 21-G:10, to the department of health and human services.

7 Change from Director to Board. Amend the introductory paragraph of RSA 327-A:5 to read as follows:

327-A:5 Powers and Duties of the [Director] **Board**. The powers and duties of the [director] **board** under this chapter include:

8 Change from Director to Board. Amend RSA 327-A:5, VI to read as follows:

VI. Adopting such rules under RSA 541-A as are necessary to carry out the purposes of this chapter, but in no instance shall the [director] **board** adopt rules limiting competition, prohibiting truthful advertising, affecting the location or number of practices or the employment of any person registered under this chapter.

9 Change from Director to Board. Amend RSA 327-A:6 to read as follows:

327-A:6 Issuance of Certificate. Except as provided in RSA 327-A:9, the [director] **board** shall issue a certificate of registration for ophthalmic dispensing to any person who files an application for such certificate accompanied by the required application and registration fees within 30 days after the filing of such application.

10 Change from Director to Board. Amend RSA 327-A:7 to read as follows:

327-A:7 Application and Registration Fees. Every application for a certificate of registration for ophthalmic dispensing shall be accompanied by a non-refundable registration fee as determined by the [director] **board**. Upon approval of the application by the [director] **board**, the applicant shall be issued a certificate of registration for ophthalmic dispensing to be valid for 2 years. The fee for renewal of any certificate of registration shall be determined by the [director] **board**.

11 Change from Director to Board. Amend the introductory paragraph of RSA 327-A:9 to read as follows:

The [director] **board** may deny the application for a certificate of registration and may suspend or revoke the registration of any ophthalmic dispenser issued pursuant to this chapter or refuse to issue a renewal thereof if it is determined after hearing that such applicant or registrant:

12 Change from Director to Board. Amend RSA 327-A:9, V to read as follows:

V. Has failed to comply with any other provision of this chapter or any rules [promulgated] **adopted** by the [director] **board**.

13 Change from Director to Board. Amend RSA 327-A:10 to read as follows:

327-A:10 Return of Certificate. Upon the suspension or revocation of a certificate of registration by the [director] **board** and the issuance of a notice thereof, the registrant shall within 5 days, not including Sundays and holidays, deliver to the [director] **board** the certificate of registration. If surrendered by mail, the certificate of registration must be sent by registered or certified mail, postmarked no later than 3 days, not including Sundays and holidays, following notice of suspension or revocation. Failure to return a certificate of registration which has been revoked or suspended hereunder within the prescribed time shall constitute a misdemeanor.

14 Change from Division and Director to Board. Amend RSA 327-A:11, I to read as follows:

327-A:11 Procedure for Complaints; Hearings; Judicial Review.



I. No certificate of registration shall be suspended or revoked until after a hearing before the [director] **board**, which shall be held in accordance with RSA 541-A, and upon written notice mailed to the registrant by certified or registered mail. However, when a notice of hearing is mailed to a registrant at the address shown in the records of the [division] **board** and such a registrant fails to attend such hearing, the [director] **board** may suspend his registration without a hearing pending his attendance at such hearing. Upon the denial of an application for a certificate of registration, the [director] **board** shall grant a hearing to an applicant therefor upon receipt of a request for a hearing made within 30 days after the applicant is notified of denial. The [director] **board** shall have the power to require the attendance of witnesses and issue subpoenas duces tecum in the conduct of such hearing. If a certificate of registration is revoked or suspended or an application is denied, no such certificate shall be issued to such former registrant or applicant for at least 6 months, or thereafter, except in the discretion of the [director] **board**. The applicant or registrant may be heard in person or by counsel. The [director] **board** shall notify the applicant of the time and place of the hearing. The [director] **board** shall have the power to subpoena any person in this state, or document, record or other relevant evidence, and administer an oath to and take the testimony of any such person or cause his deposition to be taken.

15 Rulemaking; Fees; Change from Director and Division to Board. Amend RSA 327-A:12 to read as follows:

I. The [director, division of public health services,] **board** shall adopt rules, pursuant to RSA 541-A, relative to:

[I.](a) Form and content of applications under RSA 327-A:3.

[II.](b) Notification of hearings as authorized under RSA 327-A:11.

[III.](c) Establishment of fees pursuant to this chapter.

[IV.](d) Any other matter necessary for the administration of this chapter.

II. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year.

16 Change from Director to Board. Amend RSA 327-A:14 to read as follows:

327-A:14 Renewal of Registration. Certificates of registration issued under this chapter shall be subject to renewal every 2 years and shall expire unless renewed in the manner prescribed by the [director] **board**. Certificates of registration for ophthalmic dispensing shall be renewed upon the payment of the renewal fee.

17 Change from Director to Board. Amend RSA 327-A:15 to read as follows:

327-A:15 Injunction. The [director] **board** may request the attorney general to commence an action to enjoin the operation of any person engaged in the selling or fitting of ophthalmic devices or contact lenses in violation of this chapter. Said action shall be filed in the superior court in Merrimack county.

18 New Section; Severability. Amend RSA 327-A by inserting after section 16 the following new section:

327-A:17 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

19 Initial Appointments. The governor shall appoint to the board established in RSA 327-A:4, within 60 days of the effective date of this act, the public member for a term of one year, the registered member and one certified contact lens optician member for 2-year terms, and 2 certified optician members for 3-year terms. The original appointees to the board shall be persons who are registered under RSA 327-A on the effective date of this act and who meet the requirements for registration under RSA 327-A as amended by this act in their respective categories of appointment.

20 Effective Date. This act shall take upon its passage.

### AMENDED ANALYSIS

This bill certifies persons other than physicians and optometrists who fill prescriptions for and fit spectacles, contact lenses, and other specially fabricated optical devices.

There are 3 levels of qualification: (1) registered ophthalmic dispensers, (2) certified opticians who must pass the American Board of Opticianry examination and be certified by the board, and (3) certified contact lens opticians who must have passed the National Contact Lens Examiners' examination and be certified by the board.

The bill creates a 5-member certification board which is administratively attached to the department of health and human services. The board is granted authority to adopt rules pertaining to the administration of the chapter.

The bill establishes minimum educational requirements for registration, certification, and renewal.

Amendment Adopted.

Referred To Finance (RULE #24).

**SB 205-FN**, an act relative to the establishment and funding of a review board to address grievances of tenants and owners of manu-



factured housing parks. Executive Departments committee. Ought To Pass With Amendment. Senator Pressly for the committee.

SENATOR PRESSLY: As many of you know, one of the major issues that has been debated and discussed for many years has to do with manufactured housing parks and the situation between the tenants, the owners of the buildings and the park owners, the owners of the land. As a coincidence, the statutes are referenced as 205. There has been a lot of debate and a lot of discussion. I know many of you are committed, as I am, to seeing to it that there is a proper board or proper entity to deal with the differences that do arise between these two parties. Unfortunately, there was not a consensus at this point in time. However, there was an agreement by all the parties involved that they wanted to sit down and work this out further. Also, included are the difficulties and the situation in SB 163 as I referenced to you two bills higher on your agenda, and that has to do with the possible real estate licensing. I am very optimistic about this, now being a study committee having all the players involved, defining what they are to study, having them return to the Senate. I am making a personal commitment and I think there are some other members of the Senate who feel the same way. We feel very strongly that in the next session of this biennium, we are quite determined that some proper entity, a fair and reasonable entity, be developed in order to deal with the differences that arise in these two groups of people. So that the legislature no longer has to deal with it. Those of us who worked on this feel that we are very, very close, but we still need some more time. There has been recent research done by our Senate advisors that are even bringing forth some new concepts. So it is with pleasure that I do recommend ought to pass with amendment. There may be some other amendments. There may be some other groups of people, or representatives of a group, that might also serve on this and that is fine. But the name of the game is this is a study committee to specifically return to the Senate and to the House so that in the next session, there will be an agreed upon mechanism to deal with this problem in a fair and appropriate way.

SENATOR OLESON: Senator Pressly, would you believe that checking with the Attorney General, according to him, he has more complaints in regards to trailer park owners, etc that this bill might be a step to solve these dilemmas?

SENATOR PRESSLY: You are exactly right, Senator. That is why I and so many other Senators that have this problem and have heard of this problem for years, know that the Attorney General is sensitive to this and the Attorney General or the representative from his office will be part and parcel to this. We have worked closely with

them and we hope to continue so that this can be solved in a much more reasonable and timely fashion.

SENATOR NELSON: I rise in strong support of the original bill. And I think Senator Pressly should be commended for her yeoman service. And I don't say this in a patronizing sense. She has continually fought for these people before she was a Senator, while she was an alderman and everything else. I will say though, I'll support the amendment on her word, but I still think we should have passed the bill.

### **Amendment to SB 205-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study the  
enforcement of RSA 205-A.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Members. A committee is hereby established to study and propose an entity or mechanism to fund the administration and enforcement of RSA 205-A, Regulation of Manufactured Housing Parks. The committee is to also study the issue of licensure of manufactured housing park owners and their sales staffs. The committee shall consist of the following:

I. Two members of the Mobile Homeowner Tenant Association, appointed by such association.

II. One member of the New Hampshire Manufactured Housing Association, appointed by such association.

III. One member of the New England Manufactured Housing Association, appointed by such association.

IV. One representative, who shall be a member of the state institutions and housing committee, appointed by the speaker of the house.

V. The attorney general, or designee.

VI. One senator, who shall be a member of the executive departments committee, appointed by the senate president.

2 Study Required. The committee shall study issues relevant to and propose an entity or mechanism to fund the administration and enforcement of RSA 205-A, Regulation of Manufactured Housing Parks. The committee shall also study the issue of licensure of manufactured housing park owners and their sales staffs.

3 Report. The committee shall submit a report on its findings, including legislation, to the speaker of the house, the senate president, and the governor, on or before November 1, 1991.



4 Mileage. Legislators shall receive compensation for mileage at the legislative rate when attending to the business of the committee.

5 Appointments; Initial Meeting. All appointments to the committee shall be made within 30 days of the effective date of this act. The senate member shall call the first meeting of the committee.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study the issues relevant to and to propose an entity or mechanism to fund the administration and enforcement of RSA 205-A. The committee is to also study the issue of licensure of manufactured housing park owners and their sales staffs.

Amendment Adopted.

Senator Cohen offered a floor amendment.

SENATOR COHEN: The amendment that I would offer would be to simply add one member to that committee. That member would be from the New Hampshire Association of Realtors.

SENATOR CURRIER: I rise in support of this floor amendment. During our lengthy discussions regarding the whole concept of the tenants and the mobile home park owners and the realtors and so forth, one of the strong points that came out as a result of that deliberation was that one mechanism by which remedies could be found would be through the licensure of mobile home parks and mobile home park owners. The mechanism for doing that was through the realty board — the board of realtors. During our deliberations as a committee, it was an oversight to exclude them from the process because they were so helpful in the deliberations on this measure. I would urge the full Senate to add the New Hampshire Association of Realtors to this, so we can move forward with this.

### Floor Amendment to SB 205-FN

Amend section 1 of the bill by inserting after paragraph VI the following new paragraph:

VII. One member of the New Hampshire Association of Realtors, appointed by such association.

Floor Amendment Adopted.

Ordered To Third Reading.

**SB 70-FN**, an act relative to superior court clerks for Hillsborough County. Internal Affairs committee. Inexpedient To Legislate. Senator Delahunty for the committee.

SENATOR DELAHUNTY: I would like to move to table SB 70.

Senator Delahunt moved to have SB 70-FN, Laid On The Table.

Adopted.

SB 70-FN, is LAID ON THE TABLE.

**SB 71-FN-A**, an act relative to superior court justices and making an appropriation therefor. Internal Affairs committee. No Recommendation. Senator Delahunt for the committee.

SENATOR DELAHUNTY: SB 71 came out of committee without recommendation. We would like to have it sent to Finance. We feel that there may be a need for the funds for the staffing, but we wanted to wait awhile and give the court a chance to get under way. We felt that we could give them the time it would take in Senate Finance. We also felt Senate Finance would determine the amount of available money that would be there to fund it, if it was necessary. So in essence, what we are really saying is we would like to let Senate Finance make the decision.

PRESIDENT DUPONT: So what you are doing is making a motion of ought to pass for the purpose of sending this to Senate Finance under Rule 24?

SENATOR DELAHUNTY: Exactly.

SENATOR NELSON: This is an important bill. Anyone who hasn't taken a look at it, it is the bill for the superior court justices. We are asking for four. I know that is a lot in these economic times. We could find \$1,000,000 for economic development. Remember that in every district in this state, your courtrooms are clogged. People in business can't get into the courts. Single parents can't get into the courts. Divorce people are having difficulty. They can't get their divorces through. The court is in a terrible condition in our state. I think we ought to take a look at it. I want to commend Senator Delahunt for making the motion of ought to pass to go to Finance because I think this is as important as economic development. But it is getting lost in the shuffle. So I want to praise and thank Senator Delahunt.

Senator Delahunt moved Ought To Pass motion.

Ought To Pass Motion Adopted.

Referred To Finance (RULE #24).

Recess.

Out of recess.



Senator Currier in the Chair.

**SB 180-FN**, an act relative to the time within which the board of tax and land appeals must hear appeals. (Internal Affairs committee). Ought To Pass With Amendment. Senator Dupont for the committee.

**PRESIDENT DUPONT:** Quite simply, I am sure all of you have read articles in the newspaper about the workload of the board of tax and land appeals. Senator King and other members of the Senate have called over there with concerns. As a result of those concerns, what you have before you is a piece of legislation that basically will allow the board of land and tax appeals to move forward with the heavy workload that they have. At the present time, it can take as much as two to three years, depending on how big the back log that they presently have before your appeal is heard. Under this legislation, it redefines what a quorum is so that they can, in fact, have two members sit and if the two members can't reach a consensus, then a third member is allowed to sit in. It allows a municipality or a city or town to combine property tax values on a bill as they presently do, but also to separate those on the property tax bill. There are a number of things in here that they feel would expedite their work and the Senate Internal Affairs committee felt that this allowed them the opportunity to try and meet the demands that our citizens are placing on them at the present time.

#### **Amendment to SB 180-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to the hearings process on tax abatements  
for property taxes and making a supplemental  
appropriation for the board of  
tax and land appeals.

Amend the bill by replacing all after the enacting clause with the following:

1 Quorum for Board of Tax and Land Appeals. Amend RSA 71-B:6, I to read as follows:

**I. In all matters except in hearings and decisions on tax appeals under RSA 76:16-a**, a majority of the board shall constitute a quorum to transact business, but no order or decision shall be made except by concurrence of a majority of the board. **In hearings and decisions on tax appeals under RSA 76:16-a**, the board may sit with a quorum of 2; provided, however, that if the 2 members

cannot reach a consensus on the decision, a third member shall review the record and participate in the decision, and the decision of the majority of the 3 shall constitute the board's decision.

2 New Section; Combining Land and Building Assessed Values on the Property Tax Bill. Amend RSA 76 by inserting after section 2 the following new section:

76:2-a Combining Land and Building Values on the Property Tax Bill. In assessing all property taxes as provided in RSA 76:2, the local assessing officials shall have the option of combining land and building values in one figure on the property tax bill.

3 Hearing Procedure on Abatement of Taxes. Amend RSA 76:16 to read as follows:

76:16 By Selectmen or Assessors.

I. Selectmen or assessors, for good cause shown, may abate any tax assessed by them or by their predecessors. Any person aggrieved by the assessment of a tax and who has complied with the requirements of RSA 74, may, within [60 days] **2 months** after notice of the tax, and not afterwards, apply in writing to the selectmen or assessors for an abatement of the tax.

II. Upon receipt of an application under paragraph I, the selectmen or assessors shall review the application and grant or deny the application in writing within 4 months after notice of such tax, and failure to do so shall constitute a denial. "Notice of such tax" is defined in RSA 76:16-a, I.

4 Information Required in Appeal Following Failure to Abate Taxes. Amend RSA 76:16-a, I to read as follows:

I. [If] **After** the selectmen neglect or refuse to so abate, **in accordance with RSA 76:16**, any person aggrieved, having complied with the requirements of RSA 74, upon payment of a \$40 filing fee, may, within 6 months after notice of such tax, and not afterwards, apply in writing to the board of tax and land appeals which, after inquiry and investigation, shall hold a hearing if requested as provided in this section and shall make such order thereon as justice requires; and such order shall be enforceable as provided hereafter. "Notice of such tax" means the date the department of revenue administration determines to be the last date of mailing of tax bills by the taxing district. **The person aggrieved shall state in its appeal to the board either the date of the municipality's decision on the RSA 76:16 application, or that 4 months has passed since the notice of the tax and that the municipality failed to issue a decision in accordance with RSA 76:16.**

5 Supplemental Appropriation; Board of Tax and Land Appeals. In addition to any other sums appropriated to PAU 01, 09, 01, board of tax and land appeals, the sum of \$6,000 is hereby appropriated for the biennium ending June 30, 1991, for the purpose of hiring a soft-



ware consultant. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

The bill changes the filing period for requesting a tax abatement from the municipalities from 60 days to 2 months to make time periods consistent in the statute. The bill also makes explicit the town's existing duty to review and decide abatement applications, specifying a time period to complete such review and decision. The bill amends the appeal procedure by requiring a decision or denial from the municipality before appealing to the board of tax and land appeals.

This bill also makes a supplemental appropriation of \$6,000 to the board of tax and land appeals for the biennium ending June 30, 1991, for the purpose of hiring a software consultant.

Amendment Adopted.

Ordered To Third Reading.

**SB 192-FN-A**, an act relative to the office of chief medical examiner and making an appropriation therefor. Internal Affairs committee. Ought To Pass. Senator Delahunty for the committee.

SENATOR DELAHUNTY: SB 192 is needed to support the indemnification of the chief medical examiner and also to establish a diener position within the office of the chief medical examiner. This situation was created because we used to have shared space with the state hospital and the position was taken up by the staff of the state hospital. Last year, or the year before, we moved the office of the chief medical examiner and by doing so we shut off the available help from the state hospital that was doing the work before. They can no longer provide, hence the need for the position of diener and the support dollars for the equipment and the training seminars.

Referred To Finance. (RULE #24).

**CACR 7**, an act relating to the incompatibility of holding a state office and being called up for temporary military active duty. Internal Affairs committee. Ought To Pass. Senator Roberge for the committee.

SENATOR ROBERGE: Constitutional amendment 7 rose out of a problem that started with the people being called to the Mid Eastern war. It left a question of whether they could serve in state office and still be called up for temporary service. This bill addresses that problem and I move ought to pass.

Recess.

Out of recess.

SENATOR HUMPHREY: I certainly don't argue with the intent of the bill. I think it is noble and a good bill, but I am wondering, this applies to Governor, U.S. Senators, members of Congress as well as executive council and I am assuming the General Court as well. What happens if we have a governor who is called up? Take the case of an office where there isn't somebody readily available to fill the shoes.

SENATOR ROBERGE: I yield to the sponsor of the bill.

PRESIDENT DUPONT: If I could just respond, the intent of this was to, I believe, make sure that a couple of representatives who were called up to the Persian Gulf and who will be rejoining us shortly that we would make a statement basically saying that they ought to have the ability to retain their seat, given the fact that they are doing service to our country. I would assume that if it was a prolonged situation, they would, in fact, resign their seats rather than be forced to do so.

SENATOR HUMPHREY: Do I understand correctly, then, that in the case of persons being called up for extended active duty, we would rely upon their sense of responsibility to resign from public office. There is nothing that impels them to do so?

PRESIDENT DUPONT: That is correct, and I believe that, at this point in time, there is something that compels them to do so now. I believe our constitution states the inability to serve and being called up for military service, there probably is a constitutional question that might be appropriately asked, whether or not we can, in fact, do this, other than the fact that we are not trying to amend legislation. What we are basically doing is making a statement with this CACR, in support of those who have gone over and were willing to serve.

SENATOR HUMPHREY: It is my impression that this is far more than a gesture. We are amending the constitution, are we not?

PRESIDENT DUPONT: That is correct.

SENATOR HUMPHREY: Forever.

PRESIDENT DUPONT: That is correct. It would, in fact, go to the voters of the state for a vote. And this is a recommendation of the legislature.

SENATOR HUMPHREY: Well, supposing two thirds of the state approve this. In effect, they could be depriving the citizens of one state Senate district, for example, of representation in the event that that State Senator is called up?



PRESIDENT DUPONT: There also might be those who believe that serving their country is adequate representation.

SENATOR HUMPHREY: I am as patriotic as the next guy, but I wonder if this can't be fine tuned a little bit. Can't we, for example, provide for this duality for a certain period of time? Not to exceed six months or something like that?

PRESIDENT DUPONT: As you know, you can do anything you want, as long as you have the ability to have the pens to amend. I am not adverse to someone taking another look at this, if that is what you so desire. The issues that were raised were merely those who felt that in doing service to one's country, you are being deprived of the right to hold office, even though that service might only last two weeks or six months. It doesn't deprive constituents of representation, but in fact, they are being served by that person.

SENATOR CURRIER: By voting in favor of this motion, it would provide the citizens of the state of New Hampshire to make the decision on this constitutional provision.

SENATOR HUMPHREY: Right, but if I may respond. I don't think we are relieved of our responsibility to exercise some judgment in these matters. We are not simply a conduit. Is the Senator amenable to placing this on the table without some prejudice, so that some limits can be put around in this, in the sense of time.

SENATOR CURRIER: The question to lay a bill on the table is non debatable. I haven't recognized anybody to make that motion, but what I am saying is the parliamentary situation. It is not debatable. However, this bill has passed the full House and is in the Senate for appropriate action. We were fortunate enough not to have any member of the Senate taken away by Operation Desert Shield nor Desert Storm, but the House, in fact, did have members.

SENATOR HUMPHREY: Senator Roberge, do you have any objection to such a motion?

SENATOR ROBERGE: I just reported it out. Senator Dupont is the sponsor.

SENATOR HUMPHREY: May I address the question to Senator Dupont? Would the Senator object to our putting it aside by way of tabling and try and put some time limit on this.

PRESIDENT DUPONT: I guess we could define occasionally, which is the language that is used in this, if that would make you more comfortable. But I think the intent was clear and I assume the wording of the question would be clear, as it reads here "Are you in

favor of amending the constitution to allow members of the military reserve and national guard unit, occasionally called upon to serve in an emergency, to hold state office of governor, senator, representative, executive council?" That would not be U.S. Senator or U.S. Representative and it is limited to those who are limited to military reserve and national guard units occasionally called up. I guess one could probably, historically, look back and see how many times they have, in fact, been called up and the duration, and make a determination whether occasionally is adequately defined. If you feel more comfortable laying it on the table so you can work on it further, I am not uncomfortable with it, at this point in time.

SENATOR HUMPHREY: Supposing there were a lengthy conflict or emergency, such that some members were called up for something more than a few months. Their constituents would have absolutely no recourse. It would be in the constitution. The only recourse would be to amend the constitution once more. Which means that the constituents of the affected district or districts would have to wait as much as two years to remedy the situation.

SENATOR CURRIER: Then the question would be then, if you are not in favor of a constitutional amendment, you would rise on the second calling.

SENATOR HUMPHREY: I think it is a pretty serious matter to propose, no matter how patriotic the motivation might be, to deprive some people of their representation for an extended period of time, without recourse except to amend the constitution further. That is a pretty serious situation. It seems to me that can be rectified if we can change this a little bit to be effective for only six months or whatever.

SENATOR CURRIER: The question before you is on ordering the CACR 7 to a third reading. If you are not in favor of it, you would rise on the second call.

SENATOR PRESSLY: My question on parliamentary procedures would be, we all filled out a form if there were a disaster and we were gone, who could fill in. I don't know how, if that applies to this. If we prefer to do something other than act on this today, and have time to answer some of the questions that some of us have, would we vote no for this, and then have the ability to vote some other course of action?

SENATOR CURRIER: The parliamentary situation is this: the question is, if you are in favor of ordering CACR 7 to a third reading, you will rise on the first call. If you are opposed, you will rise on the second call.



Recess.

Out of Recess.

PRESIDENT DUPONT: If one was sensitive to the concerns that have been expressed, and the motion before us was defeated, then the bill would be still on second reading and open to amendment at that point. But the question now, is whether it should be ordered to third reading. So if the third reading vote is defeated, it would be on second reading still. Is that correct and at that point in time, one could make a motion to table. Is that not correct?

SENATOR CURRIER: The question is, if you are in favor of it going to third reading, you will rise on the first call. If you are opposed, you will rise on the second call.

SENATOR PRESSLY: If I would like more time to look at this with no prejudice as to whether I was in favor or opposed to it, would I not vote no on this to allow a different action?

SENATOR CURRIER: The question is, if you are in favor of ordering CACR 7 to a third reading, you will please rise on the first call. If you are opposed, you will rise on the second call.

Division vote: Yeas: 1 - Nays: 22.

SENATOR HUMPHREY: Some felt relief from the constitution that requires our succession in the event of an emergency, but Senator Hough pointed out to me that Article 5, relative provision, applies only in case of emergency resulting from disaster caused by enemy attack. This was adopted in 1942, and Hough was here and he said it was related to Pearl Harbor. So unless we were directly attacked, that doesn't provide us release. So without prejudice, so we can perfect this a little more, I move to table.

Ought To Pass motion fails.

Senator Pressly moved to have CACR 7, Laid On The Table.

Adopted.

CACR 7, IS LAID ON THE TABLE.

SB 188, an act relative to the living will statute. Judiciary committee. Inexpedient To Legislate. Senator Podles for the committee.

SENATOR PODLES: SB 188 is the living will bill. It is designed to work with the durable power of attorney bill. The testimony was unfavorable on this Senate Bill, and the committee felt that HB 485 that passed the House would be more palatable. So the committee recommends inexpedient to legislate.

Committee Report Adopted.

**SB 210-FN-A**, an act relative to drugged driving and making an appropriation therefor. Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill was part of the Governor's task force on drunk and drugged driving recommended legislation. It creates a new offense which basically says that if you are driving with drugs in your system, you can lose your license from anywhere from 60 days to 2 years. It makes some other technical amendments to the drunk and drugged driving law. It also creates an appropriation that we hope the Finance committee will take a good look at, because it is a fairly expensive program. But I think the committee felt that the public good that would come from taking drugged drivers off the road is worth the expenditure. Presently, we have laws right now against drugged driving, but we have no practical way to enforce them because we don't have any way to test the individuals. This bill would create that mechanism. It would utilize a gas chromatograph over at the department of public health to test blood samples for illegal drugs and also appropriate funds to hire the necessary scientists and lab technicians.

**SENATOR HEATH:** Are you aware that the department of health has had that machinery for four years now?

**SENATOR COLANTUONO:** I am aware that they have had it under a federal grant, yes.

**SENATOR HEATH:** Are you aware that they spent in excess of \$50,000 and tested something under 20 to 30 people?

**SENATOR COLANTUONO:** I wasn't aware of the specific number.

**SENATOR HEATH:** Would you believe those figures?

**SENATOR COLANTUONO:** If you say them, I would believe them.

**SENATOR HEATH:** How will this move them off the dime?

**SENATOR COLANTUONO:** Which dime is that?

**SENATOR HEATH:** The dime of not doing anything. Throwing money. We gave them the machine. We gave them the money. They are not getting it done. There is nobody over there, apparently, to run the machine. How does this change that?

**SENATOR COLANTUONO:** First of all, it gives them the people to run the machine. And it creates a new offense, which will allow you to take someone's license if they have drugs in their system, even if they don't qualify for being under the influence of the drugs.



SENATOR PRESSLY: Senator Colantuono, on page 21 of the amendment section, there is a reference that this will come out of the highway fund. My major concern is this. I know we are often talking about all the highway repairs that are needed and our gasoline tax. I want to make sure that this is not coming from the gasoline tax, and I would like to know just where in the highway fund this will come from?

SENATOR COLANTUONO: We are going to send it to Finance to answer some of those questions and make sure the money is going to be there. But I am not totally sure.

SENATOR PRESSLY: Would you believe that there have been discussions at various times and various places about the appropriateness of having fines from the DWI and drug related fines to go into a special fund to handle some of these things?

SENATOR COLANTUONO: Yes, I would believe that.

#### **Amendment to SB 210-FN-A**

Amend RSA 265:80, II as inserted by section 1 of the bill by replacing it with the following:

**II. Any person who drives a vehicle on any way while having any amount of a controlled drug as defined by RSA 318-B:1, IV present in his blood or urine or both, including the metabolites or derivatives of controlled drugs, shall be guilty of a violation and his license shall be revoked for a period of not less than 60 days and at the discretion of the court for a period not to exceed 2 years. It shall be an affirmative defense that the person had a valid prescription for the controlled substance. Nothing in this section shall prohibit a prosecution of a person for violation of RSA 265:82.**

Amend RSA 265:84, II as inserted by section 2 of the bill by replacing it with the following:

**II. Any person who drives a vehicle upon the ways of this state shall be deemed to have given consent to physical tests and examinations for the purpose of determining whether he is under the influence of intoxicating liquors or controlled drugs if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or controlled drugs. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a vehicle upon the ways of this state while under the influence of intoxicating liquor or controlled drugs.**

Amend RSA 265:90, V as inserted by section 5 of the bill by replacing it with the following:

V. Any person who is charged with a violation of RSA 265:80, 265:82, or 265:82-a and who has filed an appearance with the court or has been arraigned shall file within 10 days of his arraignment or the filing of an appearance, or within 10 days of his receipt of the results of any toxicology test administered to him for the presence of any controlled drug, a notice in said court requiring the attendance of the person who conducted the test or the certifying scientist. Failure to file notice shall be deemed a waiver to require his attendance at trial. The official report of the test issued pursuant to RSA 265:84 shall be deemed conclusive evidence of the conduct and result of said test.

Amend the bill by replacing all after section 5 with the following:

6 New Paragraph; Single License Loss for One or More Refusals on One Incident. Amend RSA 265:92 by inserting after paragraph II the following new paragraph:

III. Any refusal or refusals of a request to take a test or tests conducted pursuant to RSA 265:84 arising out of one incident shall only result in the imposition of one loss of license pursuant to this section.

7 New Positions. The commissioner of the department of health and human services is authorized to hire a laboratory scientist II, a laboratory scientist III, and a secretary-typist II to be located in the division of public health services.

8 Forensic Toxicologist Salary. Amend RSA 94:1-a, I by inserting in group N: forensic toxicologist.

9 Appropriation. The sum of \$557,164 for the biennium ending June 30, 1993, is hereby appropriated to the division of public health services of the department of health and human services for the purposes of sections 7-8 of this act. This appropriation shall be non-lapsing. This appropriation shall be in addition to any other appropriations made to the division of public health services of the department of health and human services for the biennium. The governor is authorized to draw his warrant for said sum out of any money in the highway fund not otherwise appropriated.

10 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill extends existing law which punishes as a misdemeanor the driving of a vehicle while knowingly in the possession of a controlled drug or its derivative to punish as a violation and minimum 60-day license revocation the driving of a vehicle while any amount of a controlled drug in the driver's system.



The bill also requires law enforcement officers to advise any person arrested for a drug-related motor vehicle offense of the implied consent law.

The bill limits the penalty for any refusal or refusals to take a test or tests arising out of only one incident to one loss of license.

The bill places the burden on any person charged with a drug-related motor vehicle offense to require attendance in court of the law enforcement officer who administered any physical tests for the presence of controlled drugs. Failure to do so results in waiver of the officer's attendance in court.

Finally, the bill authorizes the commissioner of the department of health and human services to hire for the division of public health services 2 laboratory scientists and a secretary-typist and creates the position of forensic toxicologist within the division. The bill makes an appropriation to the department.

Amendment Adopted.

Referred To Finance (RULE #24).

**SB 107-FN**, an act relative to tenants' security deposits. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

**SENATOR BASS:** This bill prohibits security deposits held by landlords from being subject to the claim of creditors of the landlord or the landlord's successor. In other words, if the bank or any other creditor takes over the property, the tenants still have access to security deposits. The amendment which is printed in the calendar simply corrects a typographical error and eliminates the option of the landlord who is in financial trouble of giving the security deposits directly back to the tenants without the approval of whoever is taking over, be it a sale or a foreclosure. We eliminated the section on penalties from the bill, because we weren't sure whether criminal penalties were really appropriate in this environment. We urge the Senate's adoption of the committee report of ought to pass as amended.

#### **Amendment to SB 107-FN**

Amend RSA 540-A:6, II(a) as inserted by section 1 of the bill by replacing it with the following:

II.(a) Security deposits held by a landlord continue to be the money of the tenant and shall be held in trust by the person with whom such deposit is made and shall not be mingled with the personal moneys or become an asset of the landlord until the provisions of RSA 540-A:7 are complied with, but may be disposed of as pro-

vided in RSA 540-A:6, III. **Security deposits shall not be subject to the claims of any creditors of the landlord or the landlord's successor in interest, including a foreclosing mortgagee or trustee in bankruptcy.**

Amend RSA 540-A:6, III(a)(4), (5) and (6) as inserted by section 2 of the bill by replacing them with the following:

(4) the purchaser at a foreclosure sale or other lien of record, if a receiver has not been qualified, upon the conveyance to another person by the referee of the property in which the rental unit is located[.]; or

(5) the bankruptcy trustee.

Amend the bill by deleting section 4 and renumbering section 5 to read as 4.

### AMENDED ANALYSIS

This bill prohibits security deposits held by landlords from being subject to the claim of any creditors of the landlord or the landlord's successor.

The bill also clarifies the procedure of transferring tenants' security deposits to subsequent owners.

Amendment Adopted.

Ordered To Third Reading.

**SB 195-FN**, an act relative to campaign expenditure limitations. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: This fine piece of legislation is one of the victims of time in the Senate this year. Although the committee believed that there were a lot of good sections in this bill, it was important to get the bill out of the committee in time, so that we would have a vehicle for fixing up any problems in campaign spending limitation in the House. The committee eliminated all sections of the bill that made any substantive changes in the law, leaving only the technical and corrective measures intact. We urge your support of the committee recommendation of ought to pass as amended.

SENATOR HUMPHREY: The Senator stated, with the best of intents I am sure, that the bill is now only technical corrections and yet there is one substantive change, if I am not mistaken. We discussed this earlier and it is on page 6, lines 15 and 16, relative to petitions, the alternative, which is required by the U.S. Constitution, means of securing a place on the ballot. It reduces from 500 to 200 the number of petitions that a State Senator must secure to qualify for a position. That is fine. I think it is in order. I am one who



chose to go that route and I can tell you that 500 is a very difficult number to achieve. Two hundred is much more realistic. But it still is not proportionate to the requirement, for example, of someone running statewide. Someone running for governor or U.S. Senator is required to secure 2000 petitions. Someone running for state Senator, for example, is required to secure 10 percent of that, even though such a person would seek to represent 1/24 of the state's population. So I would suggest that to be not only constitutional, but fair, these numbers ought to bear a proper, proportionate ratio relationship to one another.

SENATOR BASS: I am not sure that the proportionality of signatures required to get your name on the ballot pursuant to this section is necessarily going to go to the constitution. I find that a difficult argument to make. However, the argument that you make with respect to reducing the number of petitions required for State Senate to something lower, there are two ways to go about that as you and I discussed. I would be glad to either consider that or the possibility of raising the number of petitions required for the governor to 4800 if that would satisfy the issue of proportionality.

SENATOR HUMPHREY: I didn't suggest, did I, that the constitution requires proportionality. I suggested that fairness requires proportionality. And I would further ask, is it the Senator's intention to make it more difficult for State Senate candidates, to create a heavier burden for State Senate candidates than for a candidate for governor in the proportional scheme of things. Surely that is not the Senator's intent, but that is the effect.

SENATOR BASS: The effect of the amendment, as you well know, is to make it easier for candidates for State Senate to get their name on the ballot and fail to agree to voluntary spending limitation. I understand your concern that it doesn't quite go far enough, but you would have to agree that the intent of the amendment is to make it easier, not more difficult.

SENATOR HUMPHREY: I don't know what the intent is, but the effect is surely that. Nonetheless, we are required by the constitution to provide an alternative means for those who do not chose to limit their spending. Therefore, I should think that fairness would require a proportionality. And we should not burden candidates for one class of office more heavily in a proportional sense than candidates in another class of office.

SENATOR BASS: I appreciate your concerns, Senator.

**Amendment to SB 195-FN**

Amend the bill by deleting sections 9, 11-17, 19, 20, 22, 23-26, 29, and 32 and renumbering sections 1-8, 10, 18, 21, 27, 28, 30, 31 and 33-35 to read as 1-18, respectively.

Amend the bill by replacing section 18 with the following:

18 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill amends the law on campaign expenditure limitations.

The bill makes it apply to candidates who intend to have their names placed on the state general election ballot by means of primary petitions or nominating petitions. The current law only applies to candidates who are nominated in their party primary, and to write-in candidates.

The bill also:

(1) Adds one member appointed by the governor to the advisory committee which monitors campaign financing statutes.

(2) Requires a candidate who does not voluntarily accept expenditure limitations to pay both a filing fee and to file primary petitions.

(3) Places certain fees and fines collected by the secretary of state in a special account to be used for the purpose of administering and enforcing RSA 664.

(4) Establishes minimum filing fee and primary petition requirements, regardless of whether a candidate voluntarily accepts expenditure limitations.

Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

Senator Delahunty in the Chair.

**TAKEN OFF THE TABLE**

Senator Shaheen moved to have SB 137-FN, an act relative to the Pease Development Authority, Removed Off The Table.

Adopted.

SB 137-FN, is off the table.

The question is on the committee amendment.

SENATOR COLANTUONO: Senator Dupont, I believe I heard during the earlier debate reference to the fact that the PDA is going to be required now to set up advisory committees under some other procedure from this bill. Because I was focusing my attention on the



other part of the bill, I didn't keep up with those developments. Could you fill me in on what those committees are going to be?

PRESIDENT DUPONT: I will address that when I have the opportunity to speak. It is an agreement that has been made with the PDA that they will, in fact, do some of the things that this bill would mandate.

SENATOR COLANTUONO: Are there also requirements under federal law, if there is a public benefit transfer, for there to be citizen advisory committees on some of these same issues that we have been talking about.

PRESIDENT DUPONT: That I am not sure of. But I would not be surprised and if you know otherwise, I would assume that you would inform me at the present time.

SENATOR COLANTUONO: If someone should know, perhaps you could defer the question.

PRESIDENT DUPONT: I defer to Senator Shaheen.

SENATOR SHAHEEN: In fact, Senator Colantuono, you do not need to appoint a citizen committee for a public benefit transfer.

PRESIDENT DUPONT: It is appropriate that I again rise, because if we go back to my earlier comments, you will find that although I had some concerns which Senator Colantuono very eloquently addressed concerning the public good definition in section 3 of this bill, it is, in fact, that I stand here with as much concern about the citizen advisory committee that I now rise. I want to make it clear that the PDA has given a commitment to three Senators in this body that the noise issue will be addressed. They don't need to be coerced. They understand that they have a responsibility to do it. And in good faith, not with the threat of legislation hanging over their head, they gave that. Subsequent to doing that, this legislation was moved out of the committee. So for any of you who think you are going to force the PDA to do something today that they were unwilling to do, the fact of the matter is, they recognize that they have a responsibility to do those things. And as I indicated earlier, at some point in time, may be coming back to this Senate looking for dollars to do the various things that we are discussing now at the present time. One of the things that I said earlier is that we assume that the issues are traffic and aircraft activities. Why would you set up a citizen advisory board that in fact, and I'll read you the language "any material matter" and they define material matter "as \$50,000 expenditure" and I raise the point that if you have been down to Pease you see a sewage treatment plant. On Saturday night, the sewage treatment plant

pump quits, and it is a \$51,000 pump, and the stuff is running out on the ground. So you immediately, by this act, call in your citizen advisory group, who shall, not may, not will, but shall hold a public hearing and take public comment on the replacement of the sewage treatment pump. If that is what you want, you pass this. The second issue is you wait ten days before you can buy the pump, because it is a \$50,000 expenditure. Again, I am sympathetic to Senator Shaheen's commitment to pass this legislation. I understand her reasons for doing so. But in essence, you are putting a stop to any meaningful activity down there. Because what you will have done, aside from the fact that they have given a commitment that they are going to go ahead and do this, and I stood in this body earlier and said if they don't do this, I'll be the first one to introduce a bill in the next session to force them to do. But the fact of the matter is, by taking section 3 out doesn't fix this piece of legislation. It is still flawed. It is still going to create a situation where on every activity of the PDA of any meaningful responsibility that there is a requirement that they shall take public comment. So you may say that it is fine, the public is going to know where to go, but you are going to force a public hearing on every issue of any expenditure that goes before the PDA of \$50,000 or more. That may be all well and good for the usual ones, but let's say that AirBus, which they did, wanted a public marketing study and they didn't want anybody to know that they were the ones doing the marketing study. Having been involved in economic development, the last thing a company wants you to know if they are moving into an area is what they are up to, number one; and what they intend to manufacture. They are looking for a competitive edge. And they are going to locate here because there are some reasons for them being here. So if it is going to be on the front page of the paper tomorrow night that there is going to be a public hearing held on x, y and z company that wants to move to New Hampshire, I can assure you that no company is going to come into the state of New Hampshire knowing that the second act that takes place by the state of New Hampshire is a notice of a public hearing about them moving here. Quite frankly, you may have some companies that are going to move into Pease that may be some members of the public don't want to locate there. If that being the case, the next thing you are going to have is public hearings on whether or not we should have certain types of activities at Pease. I just think what you are doing is opening up the barn doors. If you are going to pass this, we might as well make the assumption that the rest of the legislation that comes before us on Pease, you are going to be asked to make an investment, spend state dollars to make sure that some things happen down there. I think it runs counter. I'll stand again and make my commitment to Senator Shaheen as I have several times that if the



PDA doesn't live up to its commitment to members of this Senate that I'll be the first one to put legislation in next session. But this doesn't fix the problem. Because, quite frankly, I don't believe there exists a problem today, because we already have the commitment to do this.

SENATOR SHAHEEN: At the risk of belaboring this issue, and I understand that the body is ready to go on to something else, I would like to respond to Senator Dupont's comments. Because first of all the legislation doesn't require that the citizen board hold a public hearing on material matters. What it does require is the PDA to provide information to the citizen board and the citizen board to advise them. Secondly, under the legislation, it gives the citizen board access to any information available under the right to know law. Any secretive negotiations would not be available under the right to know law, so they would not be included in that. Thirdly, I have a concern and I would hope we all share it that if we are spending hundreds of thousands of dollars in public funds, that whatever that money is being spent for ought to be available to the general public to know about it. So I guess I don't have the same concern about whether we are going to let the public know before we make decisions that involve hundreds of thousands or in the case of what is going on at Pease right now, potentially millions of dollars. I am not saying we shouldn't spend that money. I think it is absolutely appropriate that Pease go forward. I think the issue is whether the public has a right to know about that information.

SENATOR COLANTUONO: Senator Dupont, earlier I said I didn't have any problem with the concept of an advisory board and I think I am hearing you say that there has been a commitment made to you, as Senate President, that the PDA will set up an advisory board. I just want to make sure I am assuming that correctly. And could you elaborate on what exactly the commitment has been?

PRESIDENT DUPONT: First, there is a requirement by the FAA that when they approve the funding of a part 150 study that there has to be a citizen advisory board appointed. They have gone as far to say, and I haven't said this publicly before, but I'll say it now, that Senator Shaheen and Senator Cohen would have a say in who is going to go on that committee. So in fact, it will be balanced. So that those who are against the airport will be part of it and those who are for it. They have gone that far. Secondly, the issue about the advisory committee, it doesn't say they may solicit. It says they shall solicit public comment and advise the Authority. So whether or not they want to hold a public hearing, I don't know how else you define shall solicit. That ultimately means somebody has to stand up and

say does anybody have any comments about this, and then you run into the situation about who notifies the public that there is an opportunity for them to solicit information. I don't mind an advisory board as long as they are going to play a role and help move the process forward. I just don't think this one does it.

SENATOR HOLLINGWORTH: Senator Dupont, in this study that you are talking about that they are going to conduct, I believe that is for noise exclusively. Is that not correct?

PRESIDENT DUPONT: We have also agreed that on traffic issues they believe a citizen advisory committee has a role to play and that all the communities ought to be represented on that. And I assume that if there are other issues where public comments will play a major role, then they will be willing to do that. Again, we have the opportunity to hold their feet to the fire, I believe. We have to give them an opportunity to fail first, before we go ahead and force them to do something that they have already, willingly admitted that they will do.

SENATOR HOLLINGWORTH: If they are agreeable to noise and traffic, and you say you think they would be interested in things like environment and pollution and all those other things that we would like to see regional development state impact, why would they not be agreeable to have this citizen advisory?

PRESIDENT DUPONT: I believe, that they believe a citizen advisory board does have a benefit. But as you remember when they had the commission and we had the original Pease commission, we didn't have one advisory board that looked at the environmental problems, at airport related issues and all of these other issues. What we had was a specific citizens advisory group looking at a specific issue. Again, what I am saying is there is no focus in this and quite frankly, I believe that as we have debated this issue and discussed this issue that it all gets down to being airport related. I think there is a commitment from the PDA at this point in time to work cooperatively with the public to try to resolve that issue. I would again end by saying I think what we have done is sent them a clear message. We have all publicly said that I am going to hold their feet to the fire. And all I am saying is give them a chance to do it.

SENATOR HEATH: Is it my understanding from your testimony that you don't mind a citizens advisory group as long as the people who are going to be advised get to appoint it?

PRESIDENT DUPONT: What I said was there is a willingness on the part of the PDA to allow the opportunity for the members of this body and perhaps the House or the communities affected to have



some say as to what is going to be going on there. Their concern is about the balance, that we make sure the people who are on this noise committee are, in fact, representative of both sides of this issue. Quite frankly, I think that is smart politics as well as smart public policy. Because that will provide the document that when it is ultimately done will adequately reflect the concerns of the community.

SENATOR HEATH: I am glad that they are willing to allow us to have some input but in fact, if this amended version passes, wouldn't that also provide for both sides to have some input.

PRESIDENT DUPONT: Senator, I believe the amended version, as I have said several times, puts the public in the position where it would have less of a say than if it were a targeted part 150 study, where there are specific reasons for that advisory committee to be involved and participating in a focused manner. I think, quite frankly Senator, that perhaps 90 percent of what the PDA does at the present time is probably of no interest to the bulk of the public. They are administrative issues dealing with the Air Force and the ultimate transfer, worrying about who is going to take the garbage out and plow the streets. I would rather use the resources that we have out there in public participation getting at the real hard issues, which are obviously the airport use and traffic uses.

Senator Currier moved the question.

Adopted.

Question is on the committee amendment.

Senator Heath requested a Roll Call on the committee amendment.

Seconded by Senator Nelson.

Yeas: 10

Nays: 14.

The following Senators voted Yes: Heath, Disnard, Pressly, McLane, Humphrey, J. King, St. Jean, Shaheen, Delahunty, Hollingworth.

The following Senators voted No: Oleson, W. King, Fraser, Hough, Dupont, Currier, Roberge, Blaisdell, Bass, Nelson, Colantuono, Poldes, Russman, Cohen.

Committee Amendment Fails.

### **Floor Amendment to SB 137-FN**

Amend the bill by deleting section 3 and renumbering sections 4 and 5 to read as 3 and 4, respectively.

### AMENDED ANALYSIS

This bill establishes a Pease citizen advisory board to advise and make recommendations to the Pease development authority. The citizen advisory board shall consist of 12 members appointed by Seacoast cities and towns.

Senator Shaheen offered a floor amendment.

PRESIDENT DUPONT: I believe the floor amendment takes out a section of the amended version of the bill. We have defeated the amendment so the floor amendment now tries to amend the section that no longer exists. The intent of the floor amendment, at this point in time, is not appropriate.

Senator Shaheen withdrew the floor amendment.

Ordered to Third Reading.

Motion failed.

### SUBSTITUTE MOTION

Senator Currier made a substitute motion of Inexpedient to Legislate for Ought to Pass.

Adopted.

SB 137, is INEXPEDIENT TO LEGISLATE.

Recess.

Out of Recess.

Senator Dupont in the Chair.

SENATOR SHAHEEN (Rule #44): I understand that what just happened with the floor amendment was totally inadvertent. But I guess I would express my concern and I assume the concern of other members of the body that hopefully Senate Counsel and our Clerk would be in agreement so that in the future, should this happen again, we all get the advise that both of them think is accurate.

PRESIDENT DUPONT: I will acknowledge the fact that there was some confusion, and we will do our best to make sure that that doesn't happen in the future.

### TAKEN OFF THE TABLE

Senator Russman moved to Have SB 41-A, an act relative to the construction of a fire training academy for New Hampshire fire fighters and making an appropriation therefor Removed Off The Table.



Adopted.

SENATOR FRASER: Earlier today, we adopted the original version of SB 41. At that time, I indicated some concern on the part of the Capital Budget committee to be sure that the \$2.00 surcharge, that the intent of the Senate was fully understood. The amendment as proposed, I believe, addresses that concern. And at this time, I would move the amendment.

Senator Fraser offered a floor amendment.

### **Floor Amendment to SB 41-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to the construction of a fire training academy  
for New Hampshire fire fighters and making an  
appropriation therefor, and relative  
to motor vehicle records fees.

Amend the bill by replacing section 3 with the following:

3 Fee for Motor Vehicle Records. Amend RSA 260:15 to read as follows:

260:15 Copies of Certificates.

I. The department may issue a certified copy of any certificate of registration, or of any license to drive motor vehicles which may have been lost or mutilated, upon the written request of the person entitled thereto and the payment of the prescribed fee, and such certified copy shall have the same force and effect as the original.

II. The department may issue a copy of any motor vehicle record upon the request of an insurance company and payment by the insurance company of a fee of \$7, which includes a surcharge of \$2 which shall be deposited in the general fund.

4 Effective Date. This act shall take effect July 1, 1991.

### **AMENDED ANALYSIS**

This bill makes an appropriation to the department of safety for the construction of a fire training academy for training of New Hampshire career, volunteer and on call fire fighters. The academy is to be built in Concord.

The bill also authorizes the department of safety to charge a \$7 fee for copies of motor vehicle records provided to insurance companies. This fee includes a surcharge of \$2 which will be deposited in the general fund.

Floor Amendment Adopted.

SENATOR NELSON: Senator Fraser, I just wanted to say thanks for taking the time to do this. I am curious, what is the mechanism in here that is going to put it to the fund for the fireman.

SENATOR FRASER: Senator Nelson, I will defer to Senator Hough to respond.

SENATOR NELSON: My question is very simply this, how are we tying in this money with the Fire and Training Academy? I was trying to find the language for that, because it says the money is going to the general fund.

SENATOR HOUGH: You aren't. The bond issue that will ultimately be floated on the fire academy will be a general fund obligation. It will be paid out of the general fund debt service in the state treasury. That value will be offset by revenues that otherwise would be in the department of safety, being deposited in the general fund. Once they are deposited in the general fund, the general fund will be enhanced by an amount equal to the amortization and the sustaining of this project.

SENATOR HUMPHREY: Senator Hough, evidently I missed something. What does all this stuff about motor vehicle fees got to do with building a fire academy?

SENATOR HOUGH: Presently, insurance companies purchase from the department of motor vehicles, motor vehicle records. They do this on all licensed operators that they insure, so they can properly underwrite and they have been doing this for a number of years. Clearly, there has been a demonstrated need and support for building a fire training facility in the state. There is no question that the insurance companies that do business in the state of New Hampshire have a clear, vested interest in making sure that the fire fighters throughout the state are properly trained, both for their own safety and for the protection of property. Recognizing that, they are fully in agreement to be paying \$7.00 for a motor vehicle record, as opposed to \$5.00, but clearly that \$2.00 differential should not remain in the department of safety to be used for motor vehicle activity. It is the \$2.00 that goes into the general fund and out of the general fund will be carried the debt service for the fire training service that will train fire fighters throughout the state of New Hampshire. It is general fund revenue, general fund activity.

SENATOR HUMPHREY: The Senator is saying that insurers of automobile drivers? Insurers of fire insurance companies are going to yield up this \$2.00?



SENATOR HOUGH: All insurance companies that do business in the state of New Hampshire that have need for motor vehicle records will be purchasing from the department of motor vehicle copies.

SENATOR HUMPHREY: The Senator represents that insurance companies, even though they may not be fire insurers, are willing to pay this extra \$2.00?

SENATOR HOUGH: The insurance carriers who write automobile insurance, also write property insurance. On the converse, there are property insurance carriers that don't write automobile insurance, but they wouldn't be buying these registrations anyway. The industry clearly recognized the need for proper training of fire fighters, and they clearly recognized the methodology that is in this bill. They brought it forward and they support it. Our amendment just makes sure that the revenues don't stay over in safety, they get into the general fund. That is the change.

SENATOR HUMPHREY: How does this \$2.00 per search - how much does that yield and how does that bear?

SENATOR HOUGH: In excess of a million dollars.

SENATOR HUMPHREY: How can it be a million? There can't be 500,000 inquiries?

SENATOR HOUGH: Yes there is. To the extent that the staff of the legislative budget assistance office got the correct information, and I saw the print out of activity for one year, from the records division of the department of motor vehicle, that number is correct.

SENATOR HUMPHREY: And this amount is sufficient for amortization every year?

SENATOR HOUGH: Yes it is. We have been working on this for three years.

SENATOR NELSON: Senator Hough, did insurance carriers come in and testify for the bill?

SENATOR HOUGH: There isn't any question about that. You will recall last Spring, I tried to tag it on to something at the local community level. We have been working on this project for a number of years. This was the first attempt where the industry has come forward with an agreed mechanism. You might add, would that be passed on to the consumer in terms of rates set? This is unique in that it is just the opposite. By them obtaining motor vehicle records, they more correctly can underwrite automobile insurance which would, in turn, mean that there would be less loss impact and less need for rate relief.

Ordered To Third Reading.

### **Announcements**

**PRESIDENT DUPONT:** We are going to make SB 1 and SB 2 special orders of business on Thursday, so the two redistricting bills will not be taken up this afternoon. There are some members who have activities that they need to attend to, so we need to get through the rest of the calendar. We will not be doing any more bills off the table. They will be special order the first part of our session on Thursday. They will be taken up first. So if anybody has floor amendments or any type of activity dealing with the bills that are now laid on the table, they will be dealt with first.

### **SPECIAL ORDER**

**March 28, 1991 at 1:01 P.M.**

**SB 1**, an act reappointing the state senate districts.

**SB 2**, an act reappointing the New Hampshire congressional districts.

### **COMMITTEE REPORTS**

**SB 151-FN**, to protect municipalities against liability in the construction and maintenance of highways, streets and sidewalks. Transportation committee. Ought To Pass With Amendment. Senator Currier for the committee.

**SENATOR CURRIER:** The amendment on this bill is on page 23 and I need say no more.

**SENATOR RUSSMAN:** I would ask, some of us just saw this, this afternoon for the first time and I talked to Senator Fraser and asked him if it could be laid on the table and brought back out on Thursday, so we could have an opportunity to look at this.

Senator Delahunty moved to have SB 151-FN, Laid On The Table.

Adopted.

**SB 151-FN**, is LAID ON THE TABLE.

**SB 167-FN**, an act establishing a committee to reevaluate the sequencing of the central turnpike projects in the city of Nashua and to examine the changing traffic conditions in the Nashua area. Transportation committee. Ought To Pass With Amendment. Senator Pressly for the committee.

**SENATOR PRESSLY:** SB 167 as amended creates a study committee to evaluate and take a look at the ten year highway plan, particularly as it references the southern tier. The members of the Senate are willing to add new members to that committee or even look at



different things. One of the frustrations that we feel in my part of the state is that we don't have any new highways yet. We are six years into it and many of us feel that there should be some further discussion with local people. The bill costs the state absolutely no money. It is strictly a way of evaluating what we have at this point and the best way to get the project on line. The recommendation is ought to pass with amendment.

### **Amendment to SB 167-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study the sequencing  
of the central turnpike projects.

Amend the bill by replacing sections 1 and 2 with the following:

1 Committee Established; Purpose. A committee is hereby established to study:

I. Improvements to, and widening and changing traffic patterns of the central turnpike between interchanges 2 and 7 under RSA 237:2, VII and whether such improvements and widening shall proceed as quickly as possible as a separate and distinct project regardless of the status of the circumferential beltway around Nashua or any other abutting project.

II. Whether it is appropriate that the collection of tolls at the toll station southbound in the vicinity of Nashua and the Massachusetts state line under RSA 237:2, VII be authorized only upon completion of the improvements and widening of the central turnpike.

III. Whether it is appropriate that the state-wide toll system be eliminated.

IV. Installation of adequate noise barriers between interchanges 2 and 7 where foliage or other natural barriers do not exist, compatible with the surrounding area, and whether such noise barriers shall be natural or man-made.

V. Appropriate methods to protect sensitive environmental areas and the property of abutting property owners from changing drainage patterns during the improvement and widening of the central turnpike.

VI. Appropriate methods and techniques for timely disclosure of the construction schedule and notification of alternate traffic routes to the motoring public during the improvements and widening of the central turnpike.

VII. The advisability of establishing a rest area between interchanges 2 and 7 on the central turnpike, and, if so, whether, prior to the establishment of such rest area the department of transporta-

tion shall fully disclose all plans and shall conduct public hearings with town or city officials in whose town or city the rest area is proposed.

2 Membership. The committee shall consist of the following:

I. Two members of the house, appointed by the speaker of the house, both of whom shall represent the area under study.

II. Two members of the senate, appointed by the president of the senate, both of whom shall represent the area under study.

III. The commissioner of the department of transportation, or designee.

IV. The mayor of Nashua or designee.

V. One member, appointed by the governor and council, who is a member of a recognized local environmental organization.

VI. The executive director of the Nashua Regional Planning Commission or designee.

Amend the bill by replacing section 4 with the following:

4 Committee Report. The committee shall submit a report on its findings including recommendations for legislative action, to the speaker of the house, the president of the senate and the governor not later than November 1, 1992.

### AMENDED ANALYSIS

This bill establishes a committee to study improvements to and widening of the central turnpike between interchanges 2 and 7 and whether they shall proceed as quickly as possible as a separate and distinct project, regardless of the status of the circumferential beltway around Nashua or any other abutting project; the collection of tolls at a certain toll station shall be authorized only upon completion of such improvements and widening; appropriate methods to protect the environment around the central turnpike and install noise barriers during the improvement and widening; and, whether it is advisable to establish a rest area between interchanges 2 and 7 on the central turnpike.

Amendment Adopted.

Ordered To Third Reading.

**SB 168-FN**, an act relative to future statewide toll increases. Transportation committee. Ought To Pass With Amendment. Senator Cohen for the committee.

SENATOR COHEN: The object of this bill is making sure that future state-wide toll increases are raised proportionately based on each toll plaza's current rate. The amendment just changes it basically so that the toll rates will be rounded off to the nearest nickel. We recommend ought to pass.



Recess.

Out of Recess.

SENATOR ROBERGE: I strongly oppose this measure for two reasons. It calls for the fact that we are going to be raising these tolls on a percentage basis. Bold Print -"a proposed toll rate change will effect tolls at all state toll plazas proportionately based on each toll plaza's current rate and toll rate charges shall be rounded off to the next nickel." If we are referring to the Spaulding Turnpike, which is currently 50 cents, a fifty percent increase would bring it up to seventy five cents. If we are talking about the Everett Turnpike, the toll there is 75 cents and a fifty percent increase would equal \$1.10. So what we are doing is widening the gap between the tolls by using this percentage basis. They don't start off at the same basis now. There is a considerable difference in what people pay and by changing the percentage rate we will just be further widening the gap. People are not using our toll roads now. They are going on the other town roads to avoid tolls now. Also the other thing is, the bill calls for if you raise tolls on one highway, you have to raise them throughout the state. I don't think that is fair either. Two things are wrong. The proportion and the fact that you have to raise them throughout the state uniformly. I think this bill is totally flawed and I urge you to vote against it.

### Amendment to SB 168-FN

Amend the title of the bill by replacing it with the following:

### AN ACT

relative to future statewide toll rate changes.

Amend RSA 237:9 as inserted by section 1 of the bill by replacing it with the following:

237:9 Tolls. The commissioner of transportation, with the approval of the governor and council, shall establish toll rates and other charges for use of the New Hampshire turnpike system or any part of the right-of-way and other property acquired in connection therewith. **A proposed toll rate change shall affect tolls at all state toll plazas proportionately, based on each toll plaza's current rate. All toll rate changes shall be rounded off to the nearest nickel.** The governor and council shall approve or reject the commissioner's proposed toll rates and other charges within 90 days of receiving them. The tolls collected shall be deposited with the state treasurer who shall keep the same in a separate account for the New Hampshire turnpike system and the operating expenses and maintenance costs of the system shall be paid from said account. From the bal-

ance remaining after payment of operating expenses and maintenance costs, there shall be paid the interest and principal on the bonds issued to finance the system. Fourteen days previous to the time any such interest or principal is payable, the state treasurer shall examine the existing balance and, except as otherwise provided in RSA 237:10, if such balance is insufficient to make the payment, then he shall notify the governor who shall immediately draw his warrant on the highway fund to cover any deficit and if the funds in both of the above accounts are insufficient, the governor shall draw his warrant upon the state's general fund to the amount necessary to meet the payments. Any funds paid out from the state's highway fund or general fund for the above purposes shall be reimbursed from the collection of tolls as soon as such funds are available. Any funds that have been or may be expended for any portion of the system by the department of transportation shall be repaid to said department when, in the opinion of the governor and council, sufficient funds are available. Any excess income may be used for further system extensions in accordance with RSA 237:5, II(m). No provision of this chapter shall constitute a covenant with bondholders with respect to the charging, collection or disposition of tolls.

### AMENDED ANALYSIS

This bill requires proposed toll rate changes to change tolls at all state toll plazas proportionately, based on each toll plaza's current rate.

This bill also requires that all toll rate changes shall be rounded off to the nearest nickel.

Senator Shaheen moved to have SB 168-FN, Laid On The Table.

Adopted.

SB 168-FN, is LAID ON THE TABLE.

**SB 222-FN**, an act relative to a study of alternative transportation. Transportation committee. Ought To Pass With Amendment. Senator Pressly for the committee.

SENATOR PRESSLY: Again, this is an effort on the part of people from our part of the state to have a better understanding, not only highways, but the total transportation system. There will be no cost whatsoever on this bill. We are hopeful, with the amendment, and placing the appropriate members on it and the scope of the study, that there will be something positive that will result from this. The committee did unanimously vote ought to pass with amendment.

### Amendment to SB 222-FN

Amend the bill by replacing section 1 with the following:



1 Purpose. The general court acknowledges the need to address the growing demands on the state's transportation services. The department of transportation believes there does exist a substantial, untapped market for alternative transportation needs in southern New Hampshire. With recognition that alternative transportation needs exist, the question remains as to whether a feasible alternative transportation system could be developed in the southern tier of New Hampshire. The general court recognizes that a planning process must be established before an alternative transportation service is developed, and such a process shall evaluate implementation issues of such a service. In examining this issue, the committee established under this act shall consider all major modes of transportation, including but not limited to air, rail, and highway transportation. The initiation and outcome of this planning process will provide valuable information for other regions of the state which may soon be presented with growth and traffic congestion problems.

Amend the introductory paragraph of paragraph I as inserted by section 2 of the bill by replacing it with the following:

I. There is established an alternative transportation study advisory committee to examine all major modes of transportation, including air, rail, and highway, and to evaluate alternative transportation needs in southern New Hampshire. The committee shall be composed of the following:

Amend paragraph I of section 2 of the bill by replacing subparagraph (h) with the following:

(h) One representative from the truck transportation industry, appointed by the governor with the consent of the council.

(i) One representative of the bus service industry, appointed by the governor with the consent of the council.

(j) One representative of the rail service industry, appointed by the governor with the consent of the council.

(k) One representative of the air travel industry, appointed by the governor with the consent of the council.

Amendment Adopted.

Ordered To Third Reading.

**SB 39-FN**, an act relative to reopening liquor stores. Ways and Means committee. Ought To Pass With Amendment. Senator Russman for the committee.

**SENATOR RUSSMAN:** Just briefly, the expectation is that perhaps two stores will be opened. One is in Suncook and the other is Greenville. I had a conversation with Commissioner Acorace over the weekend who indicated that the location in Greenville grosses \$3.5 million just in beer, cigarettes and wine. And certainly there is

some money to be made there. The decision to close the stores was more of a political than a business judgment and the Commission has told us that they would not have done so at this time, if they had the opportunity to do otherwise. We believe that a couple of them should stay closed, but that the others should either be reopened or stay open. This should go over to the House for further action on a question of agency stores.

SENATOR CURRIER: Where is the money going to come from to open these stores?

SENATOR RUSSMAN: I don't know where the money is going to come from. My understanding was that there was some money in the budget. There was anticipated some \$40,000 or something to that effect. The other thing that I would tell you is that the fellow, particularly in Greenville which is on the border, indicated that he would be happy to either put on an addition for the state to have a state liquor store or to open an agency store himself. So there are some other options that need to be looked into. I suspect that regulated revenues will do that when the bill gets over there.

SENATOR CURRIER: Does this bill go to Senate Finance?

PRESIDENT DUPONT: Senator, I would assume that it should be referred, in light of the fact that we don't know where the money is coming from. I would also add that there was a report of the special liquor committee. Does this follow along the lines of what that committee recommended?

SENATOR RUSSMAN: Yes, it does.

### **Amendment to SB 39-FN**

Amend the bill by replacing section 1 with the following:

1 Reopening Liquor Stores. Notwithstanding any other provision of law:

I. The New Hampshire state liquor commission shall reopen, within 60 days after the effective date of this act, the retail liquor stores in Greenville and Suncook closed on or about December 31, 1990.

II. The state liquor commission shall not close the retail liquor stores in Berlin, Jaffrey, Lancaster, or Bristol. Any such store closed before the effective date of this act shall be reopened within 60 days after the effective date of this act.



### AMENDED ANALYSIS

This bill reopens 2 of the 4 retail liquor stores closed by the liquor commission on December 31, 1990. The bill also prohibits the closing, or reopens if closed before the effective date of this act, 4 other liquor stores under consideration for closing by the commission.

Amendment Adopted.

Referred To Finance. (RULE #24).

**SB 170-FN-A**, an act to study the revenue structure in New Hampshire and making an appropriation therefor. Ways and Means committee. Ought To Pass With Amendment. Senator McLane for the committee.

**SENATOR MCLANE:** Representative Donna Sytek and I have been trying for a year to have a paid professional study of the tax structure of the state of New Hampshire to determine where the money is coming from that we are presently taxing people. This bill, SB 170, we have taken the money out of it. It is down to \$1.00, but Representative Sytek has been working with the Charitable Fund and others to try and provide the money for this study. We made one very significant change in our Ways and Means committee at the suggestion of Senator Humphrey. We have added the words "as government spending rises and property tax continues to rise". We have also added the phrase "spending and revenue structure". The assumption, I assume, is that we are going to look at a study of where present revenue comes from and what present revenue is used for.

**SENATOR ROBERGE:** Senator McLane, would you believe that I believe that this type of study is leading to an argument for a broad base tax and a sales tax? I can't see any other reason for studying and studying this particular issue. It has been studied before. We study it something like every other year. It is not going to change from when we studied it last time. You are creating an additional expense of \$50,000 and probably hiring an out-of-state firm to do this and nobody knows the philosophy of our state like we do right here. I think our system is correct the way it is and I would not vote for anything that would at all approach the rationale that might lead to an additional tax.

**SENATOR MCLANE:** I guess I would answer that by saying Lord, deliver Representative Kurk of Hillsborough, Representative Gross and Representative Sytek, all of whom are very much opposed to a broad based tax. But I think we have not had a study of the tax structure for the last ten years. Under Governor Sununu, there was no discussion of a change in the tax structure. I think that anyone

who looks at the reality over on the other side of the wall at this moment, and unfortunately, Senator Blaisdell has left so he can not reaffirm this, but we have a definite problem in this state with revenues and as Senator Humphrey says, with expenditures. It is a very expensive and difficult thing to study, by taking people's incomes and determining how much they presently pay in taxes. It needs to be done. It has not been done in the past ten years. And I think even those people such as Representative Kurk who are opposed to a broad based tax feel that you can't rewrite any tax structure without the backup of very complicated studies to go with it.

SENATOR HUMPHREY: Senator McLane, just so the legislative intent is clear, I ask you this. It is the committee's intention, is it not, that the study focus not only on the tax structure but on the expenditure structure?

SENATOR MCLANE: Yes. As you know, for your benefit, we did make two changes in the study, adding the words government spending and spending, twice. So I think that certainly the intent of the Ways and Means committee was very clear that that would be part of the study.

SENATOR HEATH: Senator McLane, isn't it true that no matter what kind of a study you do, or what kind of result you get in the end, it is a political question not an empirical, scientific question?

SENATOR MCLANE: I think it is obviously, deeply political. But I also believe, and I think that Senator Dupont would reaffirm this, that the complications of restructuring any part of our tax structure takes a lot of work. You have to know the source. You have to know how much people would pay. You could spend hours over the distribution formula and there is another study in here for the distribution formula. You can't just toss those off. It is very complicated and it needs to be done.

SENATOR HEATH: Senator McLane, could a good example of the complication of that be the cigarette tax that we passed and I suggested was a fine tuned tax and we could lose revenue by passing it and in fact we did? Would that be a good example?

SENATOR MCLANE: I think it would be an excellent example because in order to appropriately do a cigarette tax, you would have to study the revenue structure of all the states around us. You would have to study the buying patterns of people who buy cigarettes and where, including a very complicated way of trying to figure out whether people from other states were buying half our cigarettes. You can't just do that off the top of your head. That is what I believe the Ways and Means committee in the House and Senate agree.



SENATOR HEATH: Senator McLane, you served on Ways and Means, and have for many years in one capacity or another over the years in both the House and the Senate, so you understand the cigarette tax issue. Isn't it true, and it applies to this legislation, that no matter what the facts are, there are people like yourself who will vote for the tobacco tax for political reasons rather than maximizing revenues and isn't it true that that would also apply here? That no matter what this study comes up with, people will vote for or against an income tax based on political decisions and whether their people in district support that?

SENATOR MCLANE: I believe that your comment applies to both of us.

SENATOR CURRIER: I rise in strong opposition to the amendment and SB 170. I was a member of the study committee that was assigned a two year task to review the revenue structure in New Hampshire. I don't care how much money you throw at studying the bill, the final analysis is going to be that until this legislature decides to take a serious look at the tax structure in New Hampshire nothing, and I mean nothing, will be done. It is this legislature that is going to make that decision. And spending \$50,000 or \$1.00 on a study isn't going to do anything but waste that \$1.00 or \$50,000. The revenue structure in the state is a complex issue and we are going to need to a lot, when in fact, this legislature makes a decision to do something about it. But I would contend that this legislature isn't going to do anything about it until the constituents start burning them at the stake. There was one other point that I wanted to make, but I didn't want to get excited so I lost it. But if I think of it, I'll bring it up in some other manner.

SENATOR HOLLINGWORTH: I was not going to speak but when I heard Senator Currier address that we would not take action until our voters asked us to, I felt compelled to say something. I feel that when I speak to my voters that I can't give them a fact or evidence. I can't tell them that this tax will do this or will do that, because I don't have the numbers. I feel very impelled and was a co-sponsor of this bill because when I was out campaigning people repeatedly would say "Do you mean this dam tax is how we are going to balance?" And they didn't mean damn tax, they meant a tax that we had passed that charges people for having a dam on their property. The fees and fines, everything that we have passed in the last two years are the way we have taken to balance the budget. Anger is out there and people want to know if this is really working. And I can't tell them, because I don't know. And the only way I am going to know so that I can tell them when I do speak to my constituents is

by having fact and evidence. I had a bill similar to this one that I sponsored, and when I found that the two ladies of the House and Senate whom I respect, Senator McLane and Representative Sytek, had sponsored similar legislation, I withdrew mine. And I signed on to their bill. My voters want to know whether they are balancing the budget on legitimate charges and taxes. And I need to know to be able to address their concerns. I think this is an important piece of legislation. I think the only reason anyone would vote against it, is because they are afraid that for some reason or another the facts aren't what they had locked in their minds. I don't know what is right. I don't know if taxes that I think might work are right. I think we need an impartial person to give us fact and evidence that we can look at and then we can determine whether, in fact, those facts and evidence are what we think is right.

SENATOR SHAHEEN: Senator Hollingworth, isn't it true that this study would also study the business taxes in the state?

SENATOR HOLLINGWORTH: That is correct.

SENATOR SHAHEEN: Isn't it also true that Senator Dupont, the Governor's office, the Ways and Means committee and the BIA along with the House are all looking at ways to restructure the business taxes in this state?

SENATOR HOLLINGWORTH: That is correct.

SENATOR SHAHEEN: Would you agree with me that it makes sense to actually have a study to look at what we might do in that area, even if we don't want to pass a broad base tax?

SENATOR HOLLINGWORTH: Correct.

SENATOR CURRIER: Senator Hollingworth, the question I have is if Stan Arnold, and Charlie Connor and all those other people that we have running around here, scrambling around, do not know where the money that we receive is coming from, would you not believe that we are in trouble, if they don't know where all the money is coming from? That the information is available to us if we are willing to take the time and put the effort into getting that information and making the decision of whether we have a terrible tax structure?

SENATOR HOLLINGWORTH: I would say that they didn't obviously know where the money was coming from because our budget has been out of balance for the last many years. And we have not had the right estimates that we were supposed to bring in from those revenues. So I would say that perhaps they did not have the answers.



Senator Russman moved the question.

Adopted.

### **Amendment to SB 170-FN-A**

Amend the bill by replacing section 1 with the following:

#### **1 Study Authorized.**

I. The general court finds that as government spending rises and that as property taxes continue to rise in order to provide funding for municipal, county, and educational costs, legislative action may be necessary to address the relationship between the state revenue structure and expenditures and the fiscal relationship between the state and its subdivisions. The general court therefore authorizes a study of the tax structure in New Hampshire.

II. The study shall be conducted by an independent organization which shall be chosen by the legislative budget assistant. The legislative budget assistant is authorized to determine the qualifications of the organization which shall conduct the study.

Amend the bill by replacing sections 3 and 4 with the following:

3 Report. The independent organization shall study the state's spending and revenue structure and the fiscal relationship between the state and its subdivisions. The independent organization shall submit a report of its findings to the governor, the speaker of the house of representatives, and the president of the senate no later than December 1, 1991.

4 Appropriation. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 1992, for the purposes of sections 1-3 of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated. This sum shall be reduced by any private contributions which shall be received for the purpose of conducting the study.

### **AMENDED ANALYSIS**

This bill authorizes a study of the spending and revenue structure in New Hampshire. The study is to be conducted by an independent organization which is chosen by the legislative budget assistant. The house and the senate ways and means committees shall oversee the study.

The committee shall study the state's spending and revenue structure and the fiscal relationship between the state and its subdivisions.

The committee shall report its findings to the governor, the speaker of the house, and the president of the senate no later than December 1, 1991.

The bill appropriates \$1 for the purposes of the study. This amount shall be reduced by any private contributions which are received for the purposes of the study.

Amendment Adopted.

Referred To Finance. (RULE #24).

Senators Currier and Heath, are in opposition to SB 170-FN-A.

**SB 185-FN**, an act relative to caterers and other banquet facilities.

Ways and Means committee. Ought To Pass With Amendment. Senator McLane for the committee.

SENATOR MCLANE: Believe me, this is a good bill.

### Amendment to SB 185-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to liquor licenses for caterers and allowing caterers to subcontract the cooking, preparing, and serving of food.

Amend the bill by replacing all after the enacting clause with the following:

1 On-Site Caterer's License. Amend RSA 178:20, V(e)(l) to read as follows:

(1)(A) The commission may issue a cocktail lounge license to any caterer with on-site permanent kitchen facilities and permanent dining facilities capable of seating 100 persons or more. Such license shall allow the licensee to serve liquor and beverages with or without meals to members of a private party **or with meals to the general public** in any room of such on-site catering facility designated by the commission. For the purposes of this paragraph, persons under the age of 18 shall be allowed in rooms **restricted to private parties and not open to entry by the general public** where beverages and liquor are served without a parent or guardian present. Such lounge license may allow the licensee to serve liquor and beverages on the premises of any public building approved by the commission. Licenses shall be granted only to such caterers as the commission, at its discretion, shall approve and then only to such caterers as shall show the commission on forms and under rules adopted by the commission that at least 50 percent of their combined food and liquor and beverage sales shall fall within the category of food. Caterers with annual food sales of \$100,000 or more shall be exempt from the 50 percent requirement. Caterers shall



notify the commission not less than 5 days in advance of a function specifying date and time of the scheduled function. **Notwithstanding any other provision of law, a caterer, with the approval of the commission, may subcontract for the cooking, preparing or serving of food pursuant to the caterer's liquor license. The commission shall adopt rules in accordance with RSA 541-A to carry out the provisions of this subparagraph.** New premises or locations shall be approved by the commission 10 days before the scheduled events.

**(B) The commission may issue to a caterer licensed under subparagraph (c)(1)(A) a supplemental license to set up a separate bar facility to serve liquor and beverages with food to public or private groups as approved by the commissioner. This supplemental license shall allow the caterer to hold up to 18 events, 36 events, or 52 events for the fee established in RSA 178:27, I. The caterer shall be responsible for compliance with this title and any rules adopted under it. The caterer shall notify the commission at least 5 days before any scheduled event which shall be serviced by such bar facility. The commission may suspend the use of any bar facility without affecting the status of any other license in effect on the caterer's premises.**

2 Caterer's Supplemental License Fees. Amend RSA 178:27, I to read as follows:

I. On-sale licensees shall pay the following applicable fees annually:

	Supplemental Only	Beverages and Wine	Beverages and Liquor	Cocktail Lounge
Airport				\$1,200
Alpine Slide				1,200
Ballroom	\$45			1,200
Bed and Breakfast		\$480	\$840	
Bowling Facility				1,200
Catering (all)			1,200	
Catering (off-site only)				840
Catering (on-site only)	18 events - 450 36 events - 750 52 events - 1,200			
Club Social	18 events - 450 36 events - 750 52 events - 1,200			1,200
Club Veterans	18 events - 450			840

	36 events - 750		
	52 events - 1,200		
College Club			1,200
Convention Center			2,400
Dining Car	480	840	
Fairs	112		
Golf Facility			1,200
Hotel		840	1,200
One Day License			100
Performing Arts			336
Race Track			3,000
Racquet Sports			1,200
Rail Cars			1,200
Restaurant	480	840	1,200
Ski Facility			1,200
Vessel	480	840	1,200

3 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill allows on-site caterers to subcontract the cooking, preparing and serving of food.

This bill allows caterers with on-site facilities to serve liquor and beverages with meals at their on-site facilities to the general public.

The bill also authorizes the commission to issue supplemental licenses to on-site caterers to hold a specified number of special events per year at which beverages and liquor may be served with food.

Amendment Adopted.

Ordered To Third Reading.

Senator Hollingworth (Rule #42).

**SB 212-FN-A**, an act relative to the sweepstakes revenue distribution method. Ways and Means committee. Ought To Pass With Amendment. Senator J. King for the committee.

Senator King deferred to Senator McLane.

**SENATOR MCLANE:** The sweepstakes revenue, by its distribution method, has become what we might term, revenue neutral for some of the large cities of this state such as Manchester. Senator King wished to change that distribution formula and until there is an increase in the sweepstakes, it was felt that we could not take away from some communities to pay others. For that reason, we have decided that what we need to do is study various ways of distributing the sweepstakes and that is what this bill suggests that we do.



**Amendment to SB 212-FN-A**

Amend the title of the bill by replacing it with the following:

**AN ACT**

establishing a committee to study the method of  
sweepstakes revenue distribution.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Duties. There is established a study committee to examine the sweepstakes revenue distribution method. The duties of the committee shall be to study:

I. The administrative costs of the sweepstakes revenue distribution method.

II. The sweepstakes revenue distribution by looking at the current formula and evaluating the fairness and accuracy of the distribution and determining what percentage of a city or town budget should be state funded.

III. Ways to give specific help to needy towns and other areas, that will ensure that the distribution is being executed in the best possible manner.

2 Membership. The membership of the committee shall be:

I. Two senators, appointed by the president of the senate.

II. Two representatives, appointed by the speaker of the house.

III. The commissioner of education, or his designee.

IV. Three local leaders, or their designees, from the towns or cities that are currently receiving the highest amount of aid, which are Berlin, Rochester and Winchester.

V. Three local leaders or their designees, from towns or cities that are currently receiving no funds from the sweepstakes distribution, which are Nashua, Conway and Salem.

VI. Two school superintendents, selected by the commissioner of education.

VII. An employee from the department of education, selected by the commissioner of education, who is knowledgeable in the Augenblick formula.

3 Report. The committee shall make a report evaluating the present sweepstakes distribution formula and submit its recommendations for improvements or changes in the current formula to the governor, the speaker of the house and the senate president, on or before November 1, 1991.

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study the sweepstakes revenue distribution and to submit recommendations to improve the current procedure.

The committee is required to report its findings to the governor, the speaker of the house and the president of the senate on or before November 1, 1991.

Amendment Adopted.

Ordered To Third Reading.

### REPORT OF COMMITTEE ON ENROLLED BILLS

The committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill and House Joint Resolution:

**HB 125**, relative to drink rails.

**HB 179**, relative to authorization of treatment for communicable diseases.

**HJR 2**, providing that the Kona Wildlife Management Area shall be forever managed by the state of New Hampshire in a manner so as to protect its habitats.

### ANNOUNCEMENTS

#### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, March 28, 1991 at 1:00 p.m.

Senator Currier moved that the Senate Adjourn until Thursday, March 28, 1991 at 1:00 p.m.

### LATE SESSION

#### Third Reading and Final Passage.

**SB 4-FN**, establishing a committee to study the New Hampshire state port authority.

**SB 41-A**, relative to the construction of a fire training academy for New Hampshire fire fighters and making an appropriation therefor, and relative to motor vehicle records fees.



**SB 55-A**, an act relative to replacing the Warren Bridge on New Hampshire Route 25.

**SB 57-FN**, an act relative to the review of New Hampshire corporate laws.

**SB 79-FN**, an act establishing a committee to study an expedited permit process for environmental permits.

**SB 101-FN**, an act establishing a study committee relative to the industrial development authority.

**SB 107-FN**, an act relative to tenants' security deposits.

**SB 122-FN**, exempting certain solid waste districts from application fees.

**SB 138-FN**, establishing a committee to study the bidding process on state construction projects.

**SB 160**, an act granting condominium associations a 6-month assessment lien priority over first mortgage or deed of trust liens.

**SB 167-FN**, establishing a committee to study the sequencing of the central turnpike projects.

**SB 180-FN**, relative to the hearings process on tax abatements for property taxes and making a supplemental appropriation for the board of tax and land appeals.

**SB 185-FN**, relative to liquor licenses for caterers and allowing caterers to subcontract the cooking, preparing, and serving of food.

**SB 195-FN**, an act relative to campaign expenditure limitations.

**SB 205-FN**, establishing a committee to study the enforcement of RSA 205-A.

**SB 212-FN-A**, establishing a committee to study the method of sweepstakes revenue distribution.

**SB 222-FN**, an act relative to a study of alternative transportation.

Senator Currier moved to adjourn until Thursday, March 28, 1991 at 1:00 p.m.

Adopted.

Adjournment.

*March 28, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, everything seems to be moving along, I don't know in what direction as we look forward and celebrate the feast of the Passover and the day of resurrection!! These are times of joy and rejuvenation, newness of life, new outlooks, new friendships, spiritual growth and stature!! God Bless you all, and a happy and glorious Passover and Easter!!* Amen.

Senator McLane led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

### RESOLUTION

Senator Delahunty offered the following Resolution:

RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 52 through HJR 4 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

## INTRODUCTION OF HOUSE BILLS

### First and Second Reading and Referral

**HB 52** - relative to group health insurance participation by members of the general court. Insurance committee.

**HB 54-FN** - relative to the laws regarding children in need of services. Public Institutions, Health & Human Services committee.

**HB 127** - establishing Civil Rights Day and abolishing Fast Day. Public Affairs committee.

**HB 133** - relative to the right to know law. Judiciary committee.

**HB 169-FN** - relative to the disposition of revenues collected under the land use change tax. Ways and Means committee.

**HB 208-FN** - relative to annulments of criminal records. Judiciary committee.

**HB 269** - granting probate judges greater discretion to require bonds from executors and trustees and relative to probate court scheduling. Judiciary committee.

**HB 270-FN** relative to filling and dredging in wetlands. Environment committee.



**HB 276-FN** - relative to the task force establishing voluntary agreements reducing and recycling the solid waste stream and the duties of the commissioner of environment services. Environmental committee.

**HB 282-FN** - relative to the BOCA Basic Building Code and the Life Safety Code. Executive Departments committee.

**HB 283-FN** - establishing a study committee on the problems of New Hampshire banks and financial institutions. Banks committee.

**HB 304** - relative to escrow of funds raised through sale of certain types of securities and to certain conditions for sale of securities. Banks committee.

**HB 305-FN** - relative to the meaning of the term "charitable" for purposes of real estate tax exemptions. Ways and Means.

**HB 311** - confirming an exemption from registration for securities listed on the National Association of Securities Dealers Automated Quotation National Market System. Banks committee.

**HB 340** - relative to compliance with enabling legislation. Internal Affairs committee.

**HB 350-FN** - relative to assault. Judiciary committee.

**HB 375-FN** - authorizing towns to accept donations of property. Public Affairs committee.

**HB 385** - relative to administrative inspection warrants, town trust funds, and planning board decisions. Executive Departments.

**HB 386** - relative to a representative town meeting form of government. Public Affairs committee.

**HB 396** - relative to filing reports in court proceedings involving children. Public Institutions, Health and Human Services committee.

**HB 398** - relative to determining qualifications of applicants to vote. Public Affairs committee.

**HB 413-FN** relative to penalties for insurance laws violations. Insurance committee.

**HB 433** - establishing a developmentally delayed category. Public Institutions, Health & Human Services committee.

**HB 434** - relative to the procedure for planning boards to revoke approval of recorded plats. Executive Department committee.

**HB 445-FN** - defining "compact parts" of towns and cities with regard to criminal charges for unauthorized use of firearms and firecrackers. Judiciary committee.

**HB 451-FN** - relative to the licensing of residential care and health facilities. Public Institutions, Health & Human Services committee.

**HB 455** - relative to determination of amount of alimony awards. Judiciary committee.

**HB 461-FN** - relative to notice for out of district placement by the court. Judiciary committee.

**HB 462** - relative to special education hearing officers. Education committee.

**HB 475-FN** - relative to appointment of banking department assistants, and to the performance of contract services by the banking department, and to assessing the costs of bank examinations. Banks committee.

**HB 485** - relative to living wills. Judiciary committee.

**HB 492-FN** - relative to conservation restriction assessments. Environment committee.

**HB 496-FN** - relative to administrative fines for marine pollution. Environment committee.

**HB 509** - clarifying the definition of public benefit relative to permitting solid waste facilities. Environment committee.

**HB 513-FN** - relative to the eminent domain procedure act and unpaid taxes. Executive Departments.

**HB 514-FN** - relative to special town meetings. Public Affairs committee.

**HB 516-FN** - relative to library trustees' authority to accept gifts. Public Affairs committee.

**HB 517-FN** - relative to watercraft safety. Wildlife & Recreation committee.

**HB 519-FN** -relative to municipal budget matters and the timber tax. Ways and Means committee.

**HB 523-FN** - relative to local cease and desist orders for zoning, planning and code violations. Executive Departments committee.

**HB 530-FN** - relative to marital arbitration. Judiciary committee.

**HB 551** - relative to the distribution of taxes from towns to village districts. Ways and Means committee.

**HB 553-FN** - relative to the Bridge Street Bridge over Storrs Street in the city of Concord. Capital Budget committee.



**HB 560-FN** - relative to bacteriological standards and reclassifying certain waters. Environment committee.

**HB 563-FN** - relative to the creation of trust funds and relative to unanticipated school funds. Education committee.

**HB 565-FN** - relative to marine oil spill response, oil spillage in surface waters or groundwaters and underground storage tanks. Environment committee.

**HB 567** - relative to step-parent's visitation rights. Judiciary committee.

**HB 571-FN** - relative to multiple-employer welfare arrangements. Public Institutions committee.

**HB 572** - relative to exclusions in automobile insurance. Insurance committee.

**HB 575** - relative to liquidation and rehabilitation of insurance companies. Insurance committee.

**HB 576-FN** - relative to the investments which may be made by New Hampshire domestic insurers, other than life insurers. Insurance committee.

**HB 577** - relative to the effect of zoning changes and amendments on plats or applications accepted by a planning board. Executive Departments committee.

**HB 604** - granting rulemaking authority to the division of waste management relative to special waste and defining special waste. Environment committee.

**HB 607** - permitting actions for damages resulting from violations of workers' compensation laws by bidders on construction contracts. Insurance committee.

**HB 610-FN** - establishing a committee to study how the department of administrative services may efficiently collect the fines and fees imposed by the state. Executive Departments committee.

**HB 613-FN** - relative to the procedures of the certificate of need board. Public Institutions, Health & Human Services committee.

**HB 627-FN** - relative to the treatment of repeat DWI offenders. Transportation committee.

**HB 633-FN** - to clarify the handling of administrative fees required by local land use boards, relative to elected planning board members, and relative to the definition of "mayor" for planning and zoning purposes. Executive Departments committee.

**HB 635-FN** - authorizing the house judiciary committee to study misdemeanors and misdemeanor sentencing. Judiciary committee.

**HB 638-FN** - relative to credit for reinsurance. Insurance committee.

**HB 653** - relative to defense and indemnification of state officers and employees. Judiciary committee.

**HB 661-FN** - allowing annulments of criminal records of persons who served a term of imprisonment. Judiciary committee.

**HB 666-FN** - relative to protection and control of municipal highways. Transportation committee.

**HB 673-FN** - reinstating the charter of Capitol Leasing Company, Inc., and of Hagen and Spegiali, Inc. Internal Affairs committee.

**HB 674-FN** - designating segments of the Pemigewasset, Contoocook and North Branch of the Contoocook Rivers as protected rivers. Environment committee.

**HB 676-FN** - relative to notice of discontinuance of class IV, V or VI highways. Transportation committee.

**HB 691-FN** - relative to licensing and certification of real estate appraisers and licensing private detectives. Executive Departments committee.

**HB 692-FN** - relative to reinsurance intermediaries. Insurance committee.

**HB 702** - relative to designated smoking sections in certain buildings and offices. Public Institutions, Health & Human Services committee.

**HB 704** - relative to liquidation under the supervision of the bank commissioner. Banks committee.

**HB 706-FN** - relative to the allowable length of semi-trailers. Transportation committee.

**HB 717-FN** - permitting the designation by a vehicle owner of a vehicle's recipient upon the owner's death. Judiciary committee.

**HB 733-FN** - establishing a study committee to study public assistance. Public Institutions, Health & Human Services committee.

**HB 742-FN** - relative to excavation. Environment committee.

**HB 746-FN** - relative to procedures and fees for recording certain documents with town or city clerks. Public Affairs committee.



**HB 750-FN** - establishing a committee to study the development of a waste-tire management program. Environment committee.

**HB 751-FN** - concerning the procedure for local enforcement of certain state environmental laws. Environment committee.

**HB 752-FN** - prohibiting merchants from requiring the recording of a credit card number or expiration date as a condition for check cashing or acceptance. Banks committee.

**HB 753-FN** - redefining compost and encouraging state agencies to utilize New Hampshire-produced compost when appropriate. Environment committee.

**HB 756-FN** - relative to a victims' bill of rights. Judiciary committee.

**HB 767-FN** - relative to access to group health insurance policies. Insurance committee.

**HB 771-FN** - relative to sentencing and parole. Judiciary committee.

**HB 784-FN** - creating a long-range construction program for New Hampshire's highways and highway bridges. Transportation committee.

**HCR 9** - relative to universal access to health care. Public Institutions, Health & Human Services committee.

**HCR 12** - concerning the use of automatic dialing devices for telephone solicitation purposes. Public Affairs committee.

**CACR 11** - relating to jury trials. Providing that a 12-person jury is required in capital cases and when imprisonment may be more than one year, but that other juries shall consist of 6 persons. Judiciary committee.

**CACR 12** - relating to rulemaking authority. Providing that the general court may delegate regulatory authority to executive branch officials, but such rules may be disapproved by the general court. Executive Departments committee.

**HJR 1** - concerning the settlement of the Portsmouth, New Hampshire Naval Shipyard and inner Portsmouth Harbor border dispute between New Hampshire and Maine. Interstate cooperation committee.

**HJR 3** - requesting the university cooperative extension service to continue to work with the governor's commission on the 21st century. Education committee.

**HJR 4** - relative to providing access to Flat Mountain Pond for members of the public. Wildlife & Recreation committee.

Recess.

Out of recess.

Senator Currier in the chair.

### COMMITTEE REPORTS

**SB 1**, an act reapportioning the state senate districts. Redistricting Committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: I don't know what the best way parliamentary, I guess if I could do a parliamentary inquiry? The situation as I see it is this. There is an amendment printed in the calendar. The amendment is the amendment that the committee did on February 7. The amendment has two problems with it, if you believe there are problems and I can go either way on whether they're problems and they are this, and this is part of the parliamentary inquiry so that everybody will understand, because this gets complex. I do ask you that if you never listen to me again, try to follow me on this one, this one is important. Committee names, particular names because it was the desire of the committee to insure the integrity of the committee and make sure the study created by this bill keeps these people on. And those names are in the amendment. One of the objections raised and I got this objection half an hour before this was to be on the floor last Tuesday, is that we don't put personal names in legislation. The other objection was that there was no means for replacing vacancies within that amendment. I don't have any problems with either of those two objections and when we believed it was going to the floor, Senator St. Jean and I quickly conferenced and we drew up an amendment that is in the form of a floor amendment that will answer those problems. There are other problems and that is a longer discussion, but I want to know parliamentary, if the means to move to what is the perhaps real discussion here is to, in speaking to the bill suggest that we get rid of the committee amendment because of those two reasons and start working on some floor amendments, is that the way to do it?

SENATOR CURRIER: The parliamentary situation is this, that in order to go forward with any additional amendments, you must defeat or adopt the committee amendment.

SENATOR HEATH: To simplify Mr. President, I would move that we defeat the committee amendment and speak to the motion. In that I don't disagree with the two objections that were originally raised, the naming of personal names and a reappointment authority for vacancies, those are not points that are in contention with me. I



have moved and I would ask you to defeat the committee amendment so we can sort of clear the table and get started on the real discussion.

### **Amendment to SB 1**

Amend the title of the bill by replacing it with the following:

### **AN ACT**

to study reapportioning the state senate districts.

Amend the bill by replacing all after the enacting clause with the following:

1 Senate Committee on Redistricting. The senate committee on redistricting appointed by the president of the senate during the 1991 legislative session is hereby authorized to study how state senate districts shall be realigned in accordance with the 1990 federal census.

2 Membership. The members on the committee shall be Senator Heath, Senator St. Jean, Senator Disnard, Senator Roberge, Senator Shaheen, and Senator Currier. Senators Heath and St. Jean shall be the co-chairman of the committee.

3 Study and Report. On or before December 1, 1991, the committee should report to the president of the senate, and shall recommend legislation which shall be necessary for the 1992 session of the general court to establish state senate district lines for senate districts in accordance with the 1990 federal census which shall be used to elect state senators at the 1992 state general election.

4 Notice to Cities for Senate Redistricting. As soon as possible following the date on which this act takes effect, the senate committee on redistricting shall send a notice to every city clerk on realigning state senate districts. The notice shall state that if the boundaries of wards are to be redrawn as a result of the 1990 federal census, each city should complete that process no later than September 15, 1991, so that each city charter as amended may be approved at the city election held in November, 1991.

5 Effective Date. This act shall take effect upon its passage.

### **AMENDED ANALYSIS**

This bill authorizes the senate committee on redistricting to recommend legislation which shall be necessary for the 1992 session of the general court to establish senate district lines for senate districts in accordance with the 1990 federal census which shall be used to elect senators at the 1992 state general election.

The bill also requires the senate committee on redistricting to send a notice to each city clerk stating that if the boundaries of wards are to be redrawn as a result of the 1990 federal census, each city should complete that process no later than September 15, 1991.

Committee Amendment Fails.

SENATOR HEATH: I would ask that the clerk distribute amendment 2253L. I have my copies so if you will skip me. Thank you Mr. President, I guess I will start with a chronology of events. On your desk are the transcripts of the first and only meeting so far of the Senate Redistricting committee and you will notice the highlighted area in yellow. And I know that you each have one because I put it on your desk earlier today. You first notice the date, February 7, that is the date. Two bills came before us, we needed bills one and two that have a vehicle to begin the redistricting process. The committee consists as you see, it's unusual in that it has co-chairman, Senator St. Jean and myself and it has equal amounts of Democrats and Republicans. This is a very sensitive process that we begin. For many of us the process is highly important because it underlies for the next 10 years alot of what we do. It's a process that gets more observation from the members of this body and the public than perhaps any other single bill, particularly from the members of this body, because it effects their districts. At that meeting you'll see that Senator Dupont was the sponsor of the bills and spoke saying "obviously we are not going to have all the information that we need to get this bill out this session". Last time we did this by the way, we had bien-nial sessions so they did it in interim study because they would come out in the next session, but it's too late for us to do that because we have annual sessions and we need to have this legislation before the body next session and interim study would not do that. I don't have any language, this is Senator Dupont, 'I don't have any language and I think that there needs to be some discussion from the legal standpoint of how we take this committee and put it into statute' or whether we just let the Senate President in conjunction with the Minority leader appoint the members of the committee. There is an agreement, I repeat, there is an agreement that the same members which served or you can just put it in the statute, which that amendment that we just struck down did, and this committee would be the study committee. That is what that amendment did. Senator Disnard, said "I would feel more comfortable if this committee, meaning the one that existed, were the study committee. Essentially agreeing with the Senate President on that point and the Senate President says "so you can just draft it so that the Senate Redistricting committee as constituted will be the study committee, that would be the easiest way to do it." My co-chairman, Senator St. Jean, says "I



want to agree “we” meaning that committee sitting there, are on the committee and we will stay on the committee.” If you want to read the rest, you will see that there was no dissent from the Democrats or the Republicans, leaders from either party from that. Ovide Lamontagne was in attendance, were you not? O.K. Subsequent to that he was asked to draw the amendment. That was February 7. Tuesday, this bill was scheduled, this one too, so any argument that I make on this one is the same on two, there is only one difference between the two and that is not in contention, that is a notification to towns about wards. Tuesday, I’m at the caucus, the majority leader asked me outside the caucus to speak to me on two things. One, was on the Pease issue and the other was on a problem that the Senate President had with the committee amendment. Shortly thereafter the Senate President and I talked and he raised two objections. Naming of personal names in a bill and an appointment process for vacancies. Naming of personal names I think the argument is legitimate, we don’t generally do that. I have personally raised objections to naming corporate names, naming association names, there is a way around that and we found that and it is reflected in the amendment that I am speaking to now. The other objection was vacancies. Well it’s critical to be able to fill vacancies if somebody resigned, or got killed, or injured, or incapacitated, or moved out of state. The balance if, the names are three Republicans and three Democrats. If it’s a Democrat, then the Republicans have a majority so that they can run roughs has over the Democrats, if it’s a Republican then the Democrats have the majority and they can do the same. So it’s important to have a replacement language. This amendment resolves that and allows replacement for incapacity, lack of attendance, death, debility. I can’t think of any other reason that a person would be off the committee. And I think that you would all agree that if a person not tending to their duties on the committee, that they ought to be replaced by somebody that does. I’ve been through the process. I didn’t serve on the Redistricting committee, but I got involved with it the last time and it is a devastating amount of work and the important thing to me is that you have to do a lot of preliminary work. You have to study federal law cases. They give you strictures in terms of minorities and the treatment of them in redistricting; contiguous lines. To give you an example, two towns that touch on a point contiguous, that’s been resolved in some court actions. I can’t tell you right now how that was resolved, but that is the kind of question that you get into. And also in the one man — one vote thing, what is the latitude that you have within the population and some of the other legalisms that have to be observed in drawing one that can’t be challenged by the court. An enormous amount of preparatory work. If we use any kind of a computer or anything like

that there is preparatory work in getting up speed on the tools that you'll use to do redistricting. I had in mind and I think at least some of the other Senators and perhaps all of them on that committee had in mind that the importance of having the committee not change from when it begins work to when it presents a finished product for your approval, not a finished product that you have to live with, but simply it's offering to you for your approval that it ought to have the integrity of knowing that it can not be capriciously, to use a vernacular, jerked around. The sticking point the Senate President and I have is simply that. I believe and I am committed to resignation from this committee, I believe that once that work begins that committee that's in place ought to have the assurance that it can do its work, not in secrecy, there will be no secret meetings. I would resign before there would be a secret meeting of that committee. With full intake of anybody who wants to come in and give input verbally, I also would not tolerate not allowing that. But those members ought to have the assurance when they've done the homework that got them up to speed to the legalisms, on the equipment, that they be able to complete a product to present to you without fear for some other reason, for a vote here, or an insult, or a public statement, for fear that they be jerked off in the middle of it and taken off that committee. There is too much work involved. I can tell you that there is more work than anyone of you can imagine if you haven't been through it. This legislation sets that study committee. There are two committees that we are talking about and this is an important distinction. There is a committee on redistricting, that presently stands under the rules which allows the Senate President to appoint, he has, he can remove, he can remove us at this moment, late this afternoon, during the summer or any other time, and there is a committee that be it all the same people, if this bill passes and either of these amendments pass, is a committee set in law to do that study. That committee is the one that we are talking about, that is the committee that once it begins its work needs to have the assurance that those members won't be removed for any reason other than non-attendance, death, disability, or resignation. Now the Senate President, and the Minority leader have made those appointments. They've already had that latitude, they've had that opportunity, they were apparently in agreement. I've never heard any discussion to the contrary and that's their input and their input also can change the redistricting committee anytime, but not the study committee. The study committee has to begin the process in July when the figures will be finalized, come back with a recommendation. Now what protection do you have from us doing something capricious. Senator St. Jean and I, get together and we have a beef with the Senate President and we start screwing with his district, I



can tell you that I don't think that anyone of you would hesitate if you saw us doing something like that to snap us around and throw out our work product. I don't think we're going to work all summer to come up with something that is going to be some blatant political thing with an ulterior motive to get somebody and you wouldn't stand for it. You all get to look at it, you all get to go through the process of amendment and throw it out. All we do is come back with a recommendation, all we do is the hard work. And I can assure you if you want to think about the pleasures of being on this committee, we may be everybody's good friend as we go into the process, but when we come out, the minute you put hot lines, some toes get stepped on because geographics and the legalisms of drawing them as close as you can to the same population mean . . . Senator Blaisdell, if your not interested in this if you wouldn't distract other people, this is important to me, it really is seriously important and I would appreciate your attention or your lack of distracting someone else.

SENATOR BLAISDELL: All I was saying was that the only place that I can go in redistricting is Holyoke, Mass. So I want you to know that's what happened to me over the years, so I know what you are talking about.

SENATOR HEATH: I appreciate it. I assure you that this committee won't send you to Holyoke. All this study committee does, is come back with a work product that says that this is the best we can sort out this dilemma of finding 24 districts with a nucleus, I mean if we put two Senators in the middle of a district, here's the problem. Somebody's not going to be here, so there is this little nucleus of folks around that has to be satisfied as well as these politicals that you don't want to pick up towns of the other party and you want to pick up towns of your party and so on. There is a lot of sensitivities. We do all this work and we come out, some districts are going to change. District one has lost population, you can't go to Canada, it can't go to Maine or Vermont, so it has to go south. Who is south . . . Senator King and I are south. Our districts may have grown exactly the same proportions as the state, that doesn't matter, that zone that is district one has to move south, has to force something. I like my district, it gives me as good a plurality as any district could. My district is probably going to change, Senator King's district is probably going to change as a result. When those changes are fixed and you see the lines, all of a sudden all of this anomalism that goes on in here about this issue, everybody wakes up, they see their district, they see the line. You move this, it effects all the other districts because you have to change the population. If you put a pimple on this end, you have to put a dimple on this end. You have to keep them

so they can't be challenged, you have to keep them within a reasonable percentile of the same thing. That's a lot of work. That work needs to have the protection of not being politically interfered with during the summer. The Senate President will make the argument that if you all somehow get together and you think one of us is doing a terrible job that he ought to be able to reach in and grab us and get us out of there. And that you have the final approval if you don't like what he did. Well we start in July and we work through the summer and the fall and you're not going to be in session. If he does it essentially you won't have any say about it until we're back in session, late December, early January. I just ask you to give us this protection, I won't serve on this committee without that protection. This is not a political point with me, this is not part of a scrap that the Senate President and I have, that you all know about. This is a matter of integrity for the committee, nothing more. This isn't whether Ed wins or I win, this is a matter of principle. I stand here and ask you to think about the facts and put aside anything but the facts. If I haven't made an argument, don't vote with me on it. But on the same token if I've made the argument, adopt this amendment.

PRESIDENT DUPONT: I would like to first start off by saying that yes, I did go to the committee as Senator Heath has indicated and recommend to them that in fact they, being the committee, if the study committee was the most appropriate way to move this forward, that the study committee ought to be the six members that were jointly agreed upon by Senator Disnard in the Democratic caucus and myself. This is not an issue about me, the Senate President and I want to make that clear, because quite frankly having taken a look at my district, I find that as I look at the numbers and the growth that has taken place in my own home town, that unless Rochester suddenly ends up being split in two or my ward taken out of Rochester, that my district or whoever serves in my district is not going to have to worry about whether Rochester ultimately is the most important part of that district because of the growth that Rochester's had. So I want to remove the Senate President from this for a moment. One of the responsibilities that I have is to represent this body and I say that because I take that very seriously. I have to be fair and I have to be responsible to all of you. I'm held accountable by the fact that 13 members of this body, by vote take me out of office and there is not a day that I don't walk into this body and reflect on that and that is what keeps me honest, and accountable, and fair, and I take that responsibility very seriously. It is an issue about accountability. Because ultimately, and I agree with Senator Heath, that they ought to be able to do their work without influence from the Senate President and I have made it clear to all the mem-



bers of this committee that that is not the reason that I oppose what's being done here today and oppose the amendment as offered by Senator Heath and Senator St. Jean. The fact of the matter is, is that this probably is the most important study committee. If you are worried about your political future, that you will have an opportunity to vote on it and it's the most important work that's going to go on that a study committee does to all of you and we are all politicians as much as we all dislike the word. This committee should be more accountable to the Senate, not more accountable to the Senate President, but more accountable to all of you. I as the Senate President, am held accountable by the fact that thirteen members of this body can remove me from office. But this committee, unlike any other committee that this Senate has, will have the ability to operate in a vacuum and I applaud Senator Heath's remarks that they won't have secret sessions. That I assume that they will not talk about redistricting when nobody else is present. But the fact of the matter is, they should still be held to the same level of accountability that every other committee in the Senate is held to. And yes, I have the ability to remove anybody from a committee. But I also have the responsibility to come back to you as a body and tell you why I have done that and the reasons why I have done it. And if this body dislikes the reason why I took somebody off a committee for whatever reason, then they can overturn my decision. And that is all I'm saying today, that if the Senate President is held responsible by you, then this committee should be held responsible by the Senate. And I'm not saying that that is going to be necessary, I hope it is not necessary because I hope this committee works in a fair manner, that it does its job responsibly and what it brings back in is a document that we can all agree on. But if that is not the case and the first of November they reach no decision and I have a request by the members of this body that a new committee be appointed, the Senate President, whether it's me or whether it's Senator Fraser at that point in time or any other member of this body, ought to have the ability to put a new committee in place to do your work. The fact of the matter is, they make their report on December 1, and our legislative session will start shortly thereafter, and the tedious work and hard work that Senator Heath indicated is going to take place, will not be able to be done during the next session. So if this committee does not do its work in a manner that is acceptable to this body, then it's not going to get done and I've said time and time again and I'll say it one more time. That it's not my intent to remove members of this committee, that they should be allowed to do their work without interference and I feel badly that Senator Heath feels he must remove himself from this committee if he doesn't get his way today on the floor, because I chose Senator Heath, because I quite frankly felt

that I respect his intelligence and he has indicated that he has the time to do the job and as you've seen from his speech today, that he takes it very seriously. You hold my feet to the fire and basically all I'm saying is that you as Senators, the other 18 members of this body who are going to be served by this committee, ought to have the ability to also hold this committees' feet to the fire. Thank you Mr. President.

SENATOR HEATH: Senator Dupont, do you understand the problem that I have in the statement that if you make a wrong judgment in removing a member of that committee that you're answerable to this body, you are ultimately, the problem is if you remove in September, this body doesn't meet again until January or late December and essentially the issue is mute at that time because the product of the committee has already come forward as the committee has changed if you make that change. I guess I would ask in addition do you remember that a few moments ago, I offered and would accept still, the proposition that we add to an amendment to this the ability to allow you to call this body together, make the change and let them vote on it. I have no intention if a majority of people in this body didn't want me to do this work, I would be more than happy to accede to that and I would not want to even begin it if I didn't think that they didn't have confidence in me doing it. It's just too much work to have thrown away in the end. I guess to rephrase the two points of my question. How do you resolve the problem that you make the change in the summer, but we don't get together to ratify until it's way too late and would you accede to an amendment that would allow you to call this body in, saying they haven't resolved things, we have to make changes, I'm going to make these changes, do you agree?

PRESIDENT DUPONT: Senator, what I would respond to that would be by saying that you know in trying to draft an amendment that takes care of every situation, the amendment just gets longer and longer and what I'm asking this body to do, is to place the same confidence in me that they have so far by electing me Senate President. And I believe that I have tried to fulfill those responsibilities in a manner that the members of this body I believe have been comfortable in my doing so. That I am not going to willfully remove somebody for no cause. And the body can challenge me if I do. And the fact of the matter is Senator, that if it's a situation where this body feels that my actions have been capricious, then they have the ability to come back in and challenge that. But to try and write into legislation that if the situation such as that, it's not necessary, because they already have the authority to challenge my decisions.



SENATOR HEATH: Senator Dupont, in the overall state scheme we have commissioners that head departments and the Governor's Council appoints them and they are given terms and at the end of those terms they are reviewed. The Governor's Council doesn't have the ability nor does the Governor because we distrust totalitarian authority in this state because of our experience with King George, to reach in and snap out a commissioner because he makes one decision that displeases. This is a quasi judicial process. This has to do with the structure of this body, why wouldn't you trust the integrity of this committee since you get a final look, and a final review, and a final vote, and everything else when the work is done, why wouldn't you trust that they have that protection during the course of the summer as they do their work?

PRESIDENT DUPONT: Senator, I do trust this committee and I don't stand here today with the intent of being distrustful of this committee, but I also think that your analogy about a commissioner of a department is not a good analogy, because as I said earlier, I serve at the pleasure of this body and I'm held accountable by this body, and in order for me to do the work that this body desires me to do, the responsibility to appoint committees and put members on committees and remove committees, already exists for me. And all I'm merely saying is that for me to continue to do their work, that needs to be, needs to remain in place, Senator. Because it protects the integrity of the process and the integrity of the body.

SENATOR HEATH: Final question for the moment, final question. I'm reading your words back to you, Senator, and I'm wondering what you did mean by these, so that I can understand where this slip broke over Tuesday morning. I understand that the Minority Leader knew about it before I did. So, you can just draft it, these are your words: So you can just draft it so that the Senate Redistricting committee as constituted will be the study committee, that would be the easiest way to do it. Did I miss something in that?

PRESIDENT DUPONT: No, Senator, but as you agreed already in the amendment that came before the body on Tuesday, did not do that. It put in place the names of six members of this body in a fashion that I believe cannot be held accountable to the body. And I am standing up today as indicated earlier in trying to protect the integrity of the body. And in fact your amendment Senator, does not meet what I said that day. What I said that day was that the members of the Redistricting committee that I appointed, should make up the numbers of the study committee. I didn't say take away from this body the right to have some say over whether or not that committee does its work in manner that they in fact desire it to do and I think that that is clear Senator.

SENATOR ST. JEAN: I want to stand favorably on Senator Heath's and my amendment. If you look at the record, Roger has spoke very well to that. This committee met on February 7. There were no questions at that time of those that served. We were more than available if there were any questions by the Senate President, or any other member of the Senate, asked of those individuals that currently constitute this committee. Senator Heath mentioned it's a quasi judicial body. What we do, it will effect everybody in this body and I think it's critically important that those of us that serve on this committee don't have anything over our heads, including being plucked off the committee because during one August month, somebody doesn't think that we're doing what is right and proper. Senator Heath said to this body, that if this doesn't pass he will no longer serve as the co-chair. I make the same offering to this body. That if this piece of legislation, this amendment 2253L, does not pass, Senator St. Jean will no longer be his co-chair, nor a member of this committee. I think it's that important, that important that we pass this piece of legislation. Thank you.

SENATOR COLANTUONO: Question of the chair. This is a very difficult issue, good arguments on both sides and as a freshman Senator, I'm feeling a little uncomfortable about having to make a decision. But I would like to question the chair or anyone else that can answer this, because as I see the situation it really boils down to whatever historic prerogatives of the Senate President and I'm wondering if there is any precedent for ever taking away the prerogative of the Senate President to remove committee members, has that ever happened?

SENATOR CURRIER: We'll do this in series. I'm going to give you some latitude, but lets not get too carried away. I'll recognize Senator Blaisdell and then Senator Heath in terms of response of historical debt.

SENATOR BLAISDELL: In 20 years that I've been here, that has never happened, Senator. And I want to clear up one thing while I'm on my feet. That when, I've been through two or three redistricting and my good friend, and I want you to know this, he was my good friend, he is no longer with us, the late Senator Bob Monier. I served under him and we were not always on the right side, but I will tell you he was my friend. And I can never remember even in redistricting then, and it was in his power, he could have put me any place that he wanted. I make a joke about Holyoke, Mass., but I talked to him about my district. I swapped it with whoever was the Senator above me. Senator Disnard now has that district. I used to have Walpole and everything, I went down into the southern part of the state,



right to the border. But I never in the years that I've been here, had to worry about that and I really believe that this belongs in the Senate President's hands. I have every faith in the Senate President.

SENATOR HEATH: To specifically answer your question. I perhaps didn't make it clear enough. We're talking two committees. We are talking about the committee that is appointed by the Senate President, which is a redistricting committee. That at least with me there is no quarrel. The Senate President has always had the latitude as with any other committee that he appoints to pull people off, whether it's a committee of conference or a standing committee or a statutory committee, that's always been and that always shall be as far as I'm concerned. This is a study committee enacted through legislation, this is different. And I don't know of any time that we have enacted a study committee, whether it was with members representing the Senate or with members representing the public or combinations of both, that we have enacted the latitude for the Senate President to reach down once those appointments were made, whether it's a lake study, highway study, or a study on taxes and snap somebody else in a study that's enacted in law. That's the committee that I'm talking about. That's what this amendment goes to. This is different than the Senate committee, which I have no quarrel with.

SENATOR DELAHUNTY: I rise to ask you to give the authority to our President, to carry out the responsibilities of his office, with integrity and fairness that we've always expected him to do, and furthermore, to tell you that I have in front of you, a floor amendment to offer and ask that you defeat this amendment and give me the opportunity to introduce this floor amendment. Thank you.

SENATOR HOUGH: Fellow members, I had no intention of rising. It really makes no difference how I might vote on this issue. This is the first day of the new year where the temperature outside is approaching 60 degrees. Between now and the 30th day of June the temperature in this room will blow the top off of the thermometer. There is a member amongst the 24 of us that doesn't know the issue, I don't believe it. We've got serious work to do. We understand what the political reality of the day is. If we allow ourselves to be ripped apart in this chamber on this issue, on this day, holy week aside and Good Friday upon us, we'll never address the people's business that we're charged to between now and the end of this session. I'm a little concerned about the emotions that are running in this body and why they are running the way that we all can see them and feel them. Let's resolve this issue and get down to work. Clearly, redistricting is important and clearly people that are involved with redistricting

will act to the credit of this body. But we're doing something to each other that we shouldn't be doing and its effects will last longer than this day. Lets act responsibly and get on with our business.

Senator Heath offered a floor amendment.

### **Floor Amendment to SB 1**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

to study redistricting state senate districts.

Amend the bill by replacing all after the enacting clause with the following:

1 Senate Committee on Redistricting; State Senate Districts. The senate committee on redistricting as appointed by the president of the senate during the 1991 legislative session is hereby authorized to study how state senate districts shall be realigned in accordance with the 1990 federal census. At all times, the members on the committee shall consist of 3 Republicans and 3 Democrats, who shall, when vacancies occur, be appointed by the president of the senate with the Democrat members to be appointed with the consent of the senate Democrat leader. Vacancies shall be filled in accordance with the requirements of this section. For purposes of this section, a vacancy shall occur only upon the death, resignation, or incapacity of a committee member, or when a committee member fails to attend 3 consecutive meetings of the committee.

2 Study and Report. On or before December 1, 1991, the committee should report to the president of the senate, and shall recommend legislation which shall be necessary for the 1992 session of the general court to establish state senate district lines for senate districts in accordance with the 1990 federal census which shall be used to elect state senators at the 1992 state general election.

3 Notice to Cities for Senate Redistricting. As soon as possible following the date on which this act takes effect, the senate committee on redistricting shall send a notice to every city clerk on realigning state senate districts. The notice shall state that if the boundaries of wards are to be redrawn as a result of the 1990 federal census, each city should complete that process no later than September 15, 1991, so that each city charter as amended may be approved at the city election held in November, 1991.



4 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill authorizes the senate committee on redistricting to recommend legislation which shall be necessary for the 1992 session of the general court to establish senate district lines for senate districts in accordance with the 1990 federal census which shall be used to elect senators at the 1992 state general election.

The bill also requires the senate committee on redistricting to send a notice to each city clerk stating that if the boundaries of wards are to be redrawn as a result of the 1990 federal census, each city should complete that process no later than September 15, 1991.

A Roll Call was requested by Senator St. Jean.

Seconded by Senator Heath.

The following Senators voted Yes: W. King, Heath, Pressly, Nelson, Humphrey, J. King, St. Jean, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Oleson, Fraser, Hough, Dupont, Disnard, Roberge, Blaisdell, Bass, Colantuono, McLane, Podles, Russman, Delahunty.

Yeas: 10

Nays: 13.

Floor Amendment Failed.

Senator Delahunty offered a floor amendment.

SENATOR DELAHUNTY: I have a floor amendment to offer you and I think it's in front of you and it's #2293L and I would like to yield to Senator Dupont. I think most of the floor debate has been covered, but Senator Dupont can make the points of differences between the two.

PRESIDENT DUPONT: The amendment that Senator Delahunty has prepared, I think adequately addresses preserving the integrity of this body and the ability of this body to make sure that it in fact, has the ability to be fairly treated in the redistricting process. I would just add one other point, that unlike other study committees, even though your constituents in the end ultimately, will be effected by what happens by this redistricting study committee. It is in fact, the internal politics of this body and how your districts are going to be configured. So this study committee can not be compared to the work of any other study committee that exists out there. I do appreciate your willingness to support this amendment, not just as Senate President, but as a member of this body who feels that you ought to have the ability to be properly represented and to be represented by the redistricting study committee in a manor in which they are held accountable.

**Floor Amendment to SB 1**

Amend the title of the bill by replacing it with the following:

**AN ACT**

relative to the senate committee which is to study  
redistricting state senate districts.

Amend the bill by replacing all after the enacting clause with the following:

1 Senate Study Committee on Redistricting; State Senate Districts. The senate committee on redistricting appointed by the president of the senate during the 1991 legislative session is hereby authorized to study how state senate districts shall, if necessary, be realigned in accordance with the 1990 federal census. At all times, the members of the study committee shall consist of 3 republicans and 3 democrats, who shall be appointed by the president of the senate with the democratic members to be appointed with the consent of the senate democratic leader.

2 Study and Report. On or before December 1, 1991, the study committee shall report to the president of the senate, and may recommend legislation, if necessary, for the 1992 session of the general court which may be necessary to establish state senate district lines for senate districts in accordance with the 1990 federal census.

3 Notice to Cities for Senate Redistricting. As soon as possible following the date on which this act takes effect, the study committee on redistricting shall send a notice to every city clerk on realigning state senate districts. The notice shall state that if the boundaries of wards are to be redrawn as a result of the 1990 federal census, each city should complete that process no later than September 15, 1991, so that each city charter as amended may be approved at the city election held in November, 1991.

4 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill authorizes the senate study committee on redistricting to recommend legislation which may be necessary for the 1992 session of the general court to establish senate district lines for senate districts in accordance with the 1990 federal census.

The bill also requires the senate study committee on redistricting to send a notice to each city clerk stating that if the boundaries of wards are to be redrawn as a result of the 1990 federal census, each city should complete that process no later than September 15, 1991.

Floor Amendment Adopted.



PRESIDENT DUPONT (RULE #44): I rise for the purposes of asking my two colleagues who I know felt very strongly about this last piece of legislation we dealt with and I thank the body for their support, because ultimately, I feel that this committee will act responsibly and that all of the work and debate that we have had probably is healthy, but unnecessary. I rise basically, to say that I agree and feel just as strongly as Senator St. Jean and Senator Heath. But they should stay on the committee. I know they have made remarks to the fact that they will resign, but I rise for the purposes of asking them that this body, I believe has shown that they have confidence in their ability, but that they have the ability to do the work that needs to be done and that resignations are unnecessary and in fact, that they ought to be given the opportunity to do the work that they seem so willing to do. Thank you.

SENATOR HEATH (RULE #44): When I spoke on this piece of legislation, I asked you to listen to the argument, you listened, I trust that that is what you made up your mind on. What I put before you was essentially, my sense of what was the right way to do this, and in a way, my sense of integrity. I told you that I couldn't live with doing that kind of work, making that kind of a commitment. I spent last summer in campaigns, this summer I was committing to this. I couldn't do that if I was going to have that threat hanging over me and the rest of the committee. I've been in the legislature for a number of years, I never asked for that kind of support. No principle was worth it, this was. I don't make a resignation from a committee or anything else, idly. I shall resign, I shall not serve in that committee and I want that understood. I trust that you listened to the arguments, I trust that I did not make the arguments efficient, and I committed that I would not serve under those circumstances and I shall not. Thank you.

SENATOR ST. JEAN (RULE #44): I, too, echo the words of my friend, Senator Heath. We both made the same arguments. I have been in the Senate five terms. We've urged you to consider Senator Heath's and my amendment. It's that important to me and it's that important to Roger, and I think that it's that important to this body. I, too, will resign as co-chairman, as did my friend, Senator Heath, on principle.

Ordered To Third Reading.

**SB 2**, an act reapportioning the New Hampshire congressional districts.

Redistricting Committee. Ought To Pass With Amendment. Senator St. Jean for the committee.

SENATOR ST. JEAN: My co-chairman is no longer with us in here. SB 2 is the other part of the redistricting committee that I formally chaired. It's another piece of legislation that I urge consideration.

PRESIDENT DUPONT: I rise and I certainly won't go through the same speech that I went through on the last one. As we indicated in our discussions on the last one, the committee amendment in the calendar as the one that names the members of the committee that we all seem to have a problem with. The committee amendment should be defeated at this point in time and there will be another amendment offered. I urge you to defeat the committee amendment.

### **Amendment to SB 2**

Amend the title of the bill by replacing it with the following:

### **AN ACT**

to study reapportioning the New Hampshire congressional districts.

Amend the bill by replacing all after the enacting clause with the following:

1 Senate Committee on Redistricting. The senate committee on redistricting appointed by the president of the senate during the 1991 legislative session is hereby authorized to study how the districts for electing representatives in the Congress of the United States shall be realigned in accordance with the 1990 federal census.

2 Membership. The members on the committee shall be Senator Heath, Senator St. Jean, Senator Disnard, Senator Roberge, Senator Shaheen, and Senator Currier. Senators Heath and St. Jean shall be the co-chairman of the committee.

3 Study and Report. On or before December 1, 1991, the committee shall report to the president of the senate, and shall recommend legislation which shall be necessary for the 1992 session of the general court to establish districts for representatives in the Congress of the United States in accordance with the 1990 federal census which shall be used to elect representatives to the United States House of Representatives at the 1992 state general election.

4 Effective Date. This act shall take effect upon its passage.

### **AMENDED ANALYSIS**

This bill authorizes the senate committee on redistricting to recommend legislation which shall be necessary for the 1992 session of the general court to establish districts for representatives to the United States House of Representatives in accordance with the 1990 federal census which shall be used to elect members of Congress at the 1992 state general election.



Committee Amendment Fails.

PRESIDENT DUPONT: I rise to offer an amendment and I believe that it has Senator Delahunty's name on it and I'm looking to make sure that I have the correct number which I will announce. It's the exact duplicate of the last amendment, except this one deals with the congressional districts, it's #2294L, and I urge adoption by the Senate.

Senator Dupont offered a floor amendment.

### **Floor Amendment to SB 2**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to the senate committee which is to study  
redistricting congressional districts.

Amend the bill by replacing all after the enacting clause with the following:

1 Senate Study Committee on Redistricting; Congressional Districts. The senate committee on redistricting appointed by the president of the senate during the 1991 legislative session is hereby authorized to study how the districts for electing representatives in the Congress of the United States shall, if necessary, be realigned in accordance with the 1990 federal census. At all times, the members of the study committee shall consist of 3 republicans and 3 democrats, who shall be appointed by the president of the senate with the democratic members to be appointed with the consent of the senate democratic leader.

2 Study and Report. On or before December 1, 1991, the study committee shall report to the president of the senate, and may recommend legislation, if necessary, for the 1992 session of the general court to establish districts for representatives in the Congress of the United States in accordance with the 1990 federal census.

3 Effective Date. This act shall take effect upon its passage.

### **AMENDED ANALYSIS**

This bill authorizes the senate study committee on redistricting to recommend legislation which may be necessary for the 1992 session of the general court to establish districts for representatives to the United States House of Representatives in accordance with the 1990 federal census.

Floor Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

Senator Dupont in the Chair.

### TAKEN OFF THE TABLE

Senator McLane moved to Have SB 66, an act relative to durable power of attorney for health care, Removed Off The Table.

Adopted.

SB 66, is Off The Table.

**SB 66** an act relative to the durable power of attorney for health care. Public Institutions, Health & Human Services committee. Ought to pass with amendment. Senator McLane.

SENATOR MCLANE: On the . . . what you have passed out before you, it's on page six. Mr. President, perhaps it would be easier to go to some simple discussion of something like life or death. This bill #66 that you have before you, is the result of a lot of work, by a lot of people. We had a committee of over 30 people gathered together by the medical society. We had people from doctors, including the wonderful Charles Culver, who's head of the ethics committee at Mary Hitchcock Hospital. We had Vivian Wisdom, from the Nursing home administrators, we had nurses, we had people from legal aid, we had some very good representation from the AARP, the Living Will Society, the Hospice Group. We had lawyers, we had doctors, and I think that the main accomplishment of this bill is that we satisfied both the Catholic church and the Christian Science church. This bill allows adults to execute a durable power of attorney for health care documents, to designating an agent of their choice to make health care decisions on their behalf, when they can no longer speak for themselves. It is not a living will, and does not apply just when you're dying, but to your whole lifetime. It is an important bill in this modern day and age. It is possible with medical science to keep someone alive almost forever in a persistent vegetative state. It could happen to anyone of us as we walk out the door. And because modern science has come this far, many people would like the person they love the most or trust the most, to be able to speak on their behalf, if they could no longer do so. It eliminates the expense and the time involved in forming a guardianship. A guardianship process is a rather unpleasant and expensive process, because what you have to prove to the court is that this person is incompetent. This is going to be a necessary part of modern medicine. In 1992 the medicaid



reimbursement formula insist that this sort of law be in place and so that any hospital or any nursing home that admits a patient, informs them of the basis for this law. For that reason I bring before you a document that is very, very important to each and every one of us. This has been worked on for a long time by many people and has their support and I would ask you to pass SB 66.

SENATOR COLANTUONO: Senator McLane, I'm looking at page 11, #3, the applicability. It says that nothing in this act is intended to affect the validity or the enforceability of durable power of attorney as they pertain to health care, executed prior to the effective date of this act. So my first question is: does that imply that this whole bill is unnecessary because there already are durable power of attorney?

SENATOR MCLANE: Absolutely not. I think that you're familiar with the fact that many lawyers are now executing durable powers of attorney, but they have no basis in statute. Any one of those could be challenged in the court because there is no statutory justification for a durable power. There is in other states, but not in New Hampshire. And what we have done here, is set what we considered to be the proper form for that document to take in New Hampshire. The number of witnesses, the notarized, all of those things. If someone presently has a durable power, what we're saying is that it wouldn't go out of effect, because there are many people who presently have durable powers even though they are not executed in this exact form.

SENATOR COLANTUONO: The section #9 of the bill, talks about freedom from influence and it's one paragraph long. I have before me the original proposed Senate Bill, which has three sections and the last two appear to have been deleted. Section #2 would have required before any person entering a nursing home could sign one of these, it would have had to have been explained to them by an ombudsman, or a clergy, or an attorney, or some other person. To make sure that there was no undue influence and section #3 basically did the same thing for a hospital. And could you tell us why those two are deleted from the final draft?

SENATOR MCLANE: Yes, I will and as you know the living will legislation that is coming over from the House, also makes this change to make it easier for a person to execute the document in a hospital or in a nursing home. When we first did this legislation, we were under the impression that it was possible for a person to be under undue influence if they were admitted to a nursing home or a hospital. And so we tried to make sort of an extra barrier if you will, or an extra process to go through in the living will document we said that the superintendent of the hospital himself had to come down

and sign the document, if it was signed in a hospital. We at the request and at the advice of the nursing home superintendents and the medical society and anyone who has anything to do with hospitals or nursing homes. They felt that this was not only unnecessary, but put an undue burden on them and so we at the consult of this entire committee, remove those two sections.

SENATOR COLANTUONO: Senator, directing myself to some of the language in section #15 of the bill which talks about the form itself. This is the part of the form where the person has to make the significant life or death decisions about whether they want to have life sustaining treatments continued, which would include artificial feedings. And my question is: why not is the term terminal illness defined anywhere in this act so that the person executing this knows when it might be triggered. And I guess I have the same question about a lack of definition of the term permanently unconscious.

SENATOR MCLANE: I believe the living will statute has a definition of terminally ill. It is not in this statute, but it is part of the, I gather a legal definition, and so that I guess the fact that it is not included in this document, doesn't mean that it isn't legally defined.

SENATOR COLANTUONO: And permanently unconscious?

SENATOR MCLANE: Permanently unconscious I would assume be the same answer.

SENATOR COLANTUONO: Paragraph #3 says: that I realize the situation could arise in which the only way to allow me to die would be to discontinue artificial feeding. In carrying out the instructions I authorize my agent to direct that (a) artificial nutrition and hydration not be started. So I see an inconsistency there in terms of discontinuing something that can't be started. And I wondered why that inconsistency is there and what it means?

SENATOR MCLANE: Well I think you have two choices here, there are people who when they know they are going to die, prefer to stay at home and say, I will not go to a hospital. There are people who don't want CPR. There are people who want everything done for them and we were trying to list the possibilities and I think you see them here as cardiopulmonary resuscitation, mechanical respiration, kidney dialysis, or the use of external mechanical and technological devices. And that artificial nutrition and hydration is one of those possibilities and for that reason, we listed it. But there are two thoughts, either it is not started or if it is started, it can be discontinued. And for that reason, we have given those two choices. I might add that the whole reason for that third section is that the wishes of the Catholic church which felt that hydration and nutrition and the



withdrawal of hydration nutrition is not something that should at all be taken lightly. That that is the one place where you have to make your wishes specific and for that reason, that section is in there, so that a person has to mark that if they are going to have their agent asked to withdraw it.

SENATOR NELSON: Senator McLane, I just wanted to ask you what happens if after I've signed this, and I change my mind? Do I have . . .

SENATOR MCLANE: It's a very clear method that you go through. You rip it up and that in itself is enough to make the document illegal. You are urged to give a copy of the document to your doctor and if you've done that, I would assume that you would inform your doctor that you've either changed agents, you divorced your husband, or you decided that you don't like your best friend anymore and you've changed agents, or you decide as many people as this document also allows you to do, to say I want everything done to keep me alive and that is also a possibility.

SENATOR NELSON: What happens if I sign this document, I have it now, I've signed it, I've gone to my attorney and . . .

SENATOR MCLANE: You don't need to go to your attorney, you can just sign it.

SENATOR NELSON: O.K., I've signed it and have given it to my doctor, what if I've changed my mind and while I'm there decide, I wanted maybe to have water? How does that work out and I can't get my hands on the document?

SENATOR MCLANE: Let's talk about water for a minute. It is very clear from this document that the natural ingestion of foods is always good nursing care, good medical care, never denied. That it is invasive treatments such as a tube in your stomach, that is what we are talking about. And if you change your mind, you just rip up the document and start again.

SENATOR NELSON: O.K., I'm going to go ahead. I noticed the . . . In the definition it says in roman numeral II, it shall not include the natural ingestion of food or fluids by eating and drinking. When you say that it doesn't include invasive, is that what you're saying, it's covered in that sentence?

SENATOR MCLANE: No, I'm saying that artificial hydration nutrition is what we are talking about. And we're defining them as invasive procedures such as tubes, intravenous feeding, hyperalimentation. And those are the modern methods of keeping you alive

if you're unconscious and that is what we are talking about. We are not talking about the symbolic cup to the lip, the ice in the mouth, the whatever else that is offered, soup.

SENATOR NELSON: Just a quick clarification of that. And the way that you say that you're not talking about it is because it's stated in this bill?

SENATOR MCLANE: Yes, it's stated in the bill. It should not include the natural ingestion of foods or fluids by eating or drinking. And that's what the nursing profession wants to make very clear. We're not going to starve anybody and we're not talking about that. We are talking about invasive tube procedures.

SENATOR HUMPHREY: Senator McLane, under this bill is something as simple as an intravenous solution, considered an invasive procedure?

SENATOR MCLANE: It is if you, in the definition of what you would allow your agent to remove. And I think that's what's really important here. What you're doing, as it is now, you can say, if you're in the hospital and you're of sound mind or you're conscious, you can say no way, and you can turn this off or you can have it. Your doctor can also say, this person should have this or that they shouldn't. All we're talking about here is taking that right, which you already have and giving it to someone else, someone you pick and you trust.

SENATOR HUMPHREY: As our colleague, Senator Colantuono, has pointed out, some very important terms are not defined in this bill. For example, the term permanently incompetent, I'm referring now to page 14 of the amendment as printed. At the bottom the patient is asked to make certain choices and it says that if I become permanently incompetent, well there is no definition in this bill, or anywhere in law, and not in the living will law either, anywhere in law of permanently incompetent. Neither is there any definition of permanently unconscious. Who in the world could ever define that? Because only that person who is certain about the state of unconscious of an individual, namely our creator, will ever know if someone is permanently unconscious and yet there is a term that is undefined and undefineable, and which is a predicate for the consent required by this bill. And as for the term terminally ill, that is defined under the living will statute, RSA 137. It's defined as a terminal condition. It says, terminal condition means an incurable condition caused by injury, disease or illness, which is such that death is imminent. There again is a highly subjective term, undefined. Who can ever define it? Who can ever be certain except our creator alone that someone's death is imminent. And so here are



these three heavily laden subjective terms, which are the predicates of these consent statements which are undefined and indefinable. I only cite that as an indication of the thicket into which we are being drawn by this bill. But what is even more disturbing to me, is that this bill redefines the administration of nutrition and hydration. Even by a procedure as simple as an intravenous drip, as an invasive procedure. Heretofore, in law now on the books. The administration of food and water is not considered an invasive technique. But under this bill, we are crossing the threshold ladies and gentlemen, where the administration of food and water, I should say nutrition and hydration, even by something as simple as an intravenous drip becomes an invasive technique, an invasive procedure. This is a large step across the threshold in my opinion at least, onto the slippery slope at the bottom of which is outright euthanasia. Next, after redefining food and water as invasive, next will come the administration of medicine as invasive. If somebody has an infection and they are elderly and otherwise deemed by the agent to be done for, all washed up, maybe no longer useful in the eyes of someone. That agent can withhold something as simple as antibiotics. That will be the next step. First food and water, next simple medicines, and who knows what, after that. I do want to comment about the position of the Catholic church, I'm not in power to speak for that church or any other ecclesiastical authority, but I spoke with the Archdiocese, as the case may be, in Manchester and was told that in fact, they do not endorse this bill. They don't oppose it, but they don't endorse it either. That is an important distinction and I want everyone to understand that, I don't mean to imply by this that Senator McLane meant to mislead anyone, but I do think that that is an important point that I wanted to clarify. I don't see the pressing need for this. I know everyone, the proponent will raise the case of poor Nancy Cruzan, who was ultimately starved to death after they withdrew her respirator and she wouldn't die, they finally starved her to death. Well hard cases make bad laws. I don't know that there are a great many of these cases in our state, I don't know exactly how these situations are being handled now, but I think that's probably better whatever it may be. It's probably better than enacting into statute this kind of stuff that redefines food and water, the administration of food and water as invasive techniques and predicates consent agreements on terms that are undefined and indefinable. I think that we are stepping across the threshold, Mr. President, and obviously I'm going to oppose the bill. I hope that other Senators will at least pause before they support it.

SENATOR PODLES: Senator McLane, I understand that no health or residential care provider will be subjected to criminal or civil lia-

bility, if they make a health care decision in good faith. Could you tell me who is going to determine that good faith, that is a concern of mine.

SENATOR MCLANE: I guess in answer to your concerns and those of Senator Humphrey, I would say that I had a little more faith in our health care system in the way that it's working now and our doctors and nursing homes in this state, than perhaps you do. I think that that language is in there, in place. I think that it's boiler plate language to say that if someone has done a living will in accordance with their wishes, and their wishes are carried out by the agent and by the hospital, that's one of the reasons why we need the document. And so that the document makes clear that when they have stated their wishes, that their wishes will be carried out and that the hospital will not be liable for carrying out their wishes under the dictates of this law.

SENATOR PODLES: So would you agree with me that they have full immunity?

SENATOR MCLANE: I don't think that the medical profession ever has full immunity and I think that the laws in the cases that you see before the court proves that. There have been some very dramatic ones lately in the Supreme Court. I don't think any law can give anyone full immunity. What this is saying is, that they shall not be liable for carrying out the dictates of someone's agent that they have made under this law, if that person has signed this document. That is what they are saying. They certainly are not saying that the hospital can, or the nursing homes can do anything they want. Because that would never be true.

SENATOR HUMPHREY: Senator McLane, I'm looking at the, what I regard as the consent agreement on page four of the amendment. The second statement which reads: Whether terminally ill or not, if I become permanently unconscious, again that term is undefined and who can know who's permanently unconscious except our creator. Lots of people who are thought by world, us here on earth to be permanently unconscious, in fact awoke, came out of comas. Nonetheless, it says whether terminally ill or not, if I become permanently unconscious, I authorized my agent to direct that life sustaining treatment be discontinued. Now, Senator McLane, under this provision if someone circles yes, and that someone is an 80 year old man with diabetes, who has somehow not received his insulin and has gone into a coma, would that person's agent, if that person had circled yes on that form, would that person's agent under this bill have the power to withhold the administration of insulin?



SENATOR MCLANE: I think that your going at a question which comes down to good medical procedure. If you think that that's happening now in the hospitals, if you think that people are going into a hospital and not taking medication and dying because of it, then what this document would do is to allow you to appoint an agent who would also make those decisions. But I don't believe that that's happening now, nor will it. I think that you've got to believe that good medical procedures take, cover everything. And that you're not going to have hospitals withdrawing hydration nutrition from people who don't want it done and aren't dying.

SENATOR HUMPHREY: Hospitals will have no choice, will they, under this bill. Because if the agents wishes are not fulfilled, the agent can secure the transfer of the patient to another facility, is that not correct?

SENATOR MCLANE: That is correct, but I think that when you look at someone who is terminally ill, and/or permanently unconscious. If a doctor is going to remove that person to another hospital because they refuse to withdraw hydration nutrition, you're going to have the other hospital saying: we're not going to take this person. They're not terminally ill, you've got to believe that at a certain point medical practice will prevail over someone who is in your point trying to do themselves in when they are still perfectly alright.

SENATOR HUMPHREY: Well Mr. President, this is a matter literally, of life or death, and if it takes us all day to thoroughly debate it, we ought to do so and the heck with the rest of this.

PRESIDENT DUPONT: Senator, if I could just respond to that and I'll rule you out of order on that, because I do have four other speakers, and there may be other questions and other points that need to be raised. We will have sufficient time to debate, but there are other people that wish to speak and I'm just asking that you give them their fair chance.

SENATOR HUMPHREY: I would be happy to do so, and I will yield the floor now to prove the point.

PRESIDENT DUPONT: Go on with your question, Senator.

SENATOR HUMPHREY: Senator McLane, I will ask the question again and ask for a direct response. Is it not correct that under this bill, in the case of an 80 year old person in a coma because of lack of insulin, who had circled this form yes, that the agent could withhold the insulin, is that correct or not?

SENATOR MCLANE: The agent could ask the doctor and this could happen now, this is what you have to be so careful to know. There isn't a single right in this bill, that the agent has that the

person doesn't have now. And if someone wants to not give themselves insulin, they have the right now. And this is, I think, a very important point . . .

SENATOR HUMPHREY: There is a difference . . .

SENATOR MCLANE: Is there no law presently makes someone take their insulin, makes them brush their teeth, makes them do anything that they don't want to do, and that is what this would ensure.

SENATOR HUMPHREY: The Senator is evading the question and I will repeat it if I'm given an opportunity to do so.

SENATOR COLANTUONO: I prepared some fairly lengthy remarks on this because I think this is probably the most significant issue that we're going to face this session, but because of the weather and the time and so forth, I'll just cut and make it brief. This bill, the reason that I consider this bill so significant, and before that I want to preface by saying that I agree that we need a law regarding durable powers of attorneys and 95 percent of the bill, I probably agree with. It's the part of the bill at the edge that causes ethical concerns for me. It's the part of the bill that allows for the first time in our history, legal or medical, persons to be killed by starvation or dehydration that I object to. It's the part of the bill that allows a person to sign this form saying that if they are terminally ill without definition, artificial nutrition hydration can be withdrawn from them and they can then be put to death by starvation or dehydration. Now being put to death by starvation or dehydration is not an easy thing and it's certainly not what anyone would consider death with dignity. It takes up to two weeks to do it, Nancy Cruzan died after 12 days. And I'll never forget the news report that I heard on channel 9 the day that the court in Missouri gave the authority for Nancy Cruzan's parents to put her to death. The news reporter said: The long ordeal of Nancy Cruzan is now about to be over, and I was shocked by that statement. Because Nancy Cruzan was alive prior to that. She was in a persistent vegetative state, but she could react to stimuli, and I think that it's important to know it also, that the feeding tube that was put into Nancy Cruzan was put in to make it more comfortable, but she could eat before it was put in. I'm not making this up, that's right out of the transcript from the Missouri proceeding. I was shocked because to my way of thinking, and my way of ethics, her ordeal was about to begin. She was going to be starved to death and it took her twelve days to die that horrible, painful death. So for the first time in our legal and medical history, we are establishing legislation which will say to our state, that there are persons who are in such a condition of life, that their life is not



worthy to be lived. And I'm afraid that we're going to be killing off a lot of people who shouldn't be killed off because the medical literature is full of cases who have recovered from what doctors thought permanently unconscious, even from totally flat EEG's. And you don't have to look at the medical literature to know this, you can just read the newspapers. There is a case that just came up a couple weeks ago from another state, where a person who had survived an attack, 8 years ago, has been in a coma for 8 years, suddenly awoke miraculously. And now they know who the attacker was and they are dealing with it. I clipped this out of the Sunday News, on February 10. A teen, if that person had had one of these signed, he would have been dead by now, he would have been dead a long time ago, eight years ago. I clipped this out of the Sunday News, a teen recovered from a puck injury. A Manchester boy was hit in the head by a puck and lapsed into a coma and the part that caught my attention, was the part here that said: doctors at Catholic Medical Center told his parents that they didn't expect him to live. So it would have been the medical judgment that he was, he had a terminal illness and he was permanently incompetent, and if he were an adult that had signed one of these, he would have been killed. My concern is really with where this bill fits into the total scheme of things of the people who are promoting euthanasia in this country. And I don't fault the promoter's or sponsors of the bill here in the Senate, but it's the people behind the scenes, the people from the Hemlock Society, the Living Will Society, the Society for the Right to Die and so forth. What happened in this whole scheme of things 5 years ago or 6 years ago, when . . . left out artificial nutrition and hydration and the people who insisted upon that were told that this was the way our law was going to be. Now six years later, we're coming and redoing that, revisiting it, and now we're putting in artificial nutrition and hydration into the law. Once this passes, we're going to have cases of people who will be starved to death and who will die a painful, lengthy death. And then, what is going to happen, we're going to see the people in those families, the nurses, the doctors, people in the medical profession come forward and say: look at what we're really doing to these people. We have established that we can kill them, but what a painful, inhumane way to do it. Why don't we simply give them a lethal injection? And that argument is going to be, basically irresistible. Because we have already established the principle that you can kill people. And we are going to at that point, change from passive euthanasia, which is what we have under this bill, to active euthanasia. And I'm simply, I understand where the votes are in this body. I'm simply speaking for the record for posterity, I'm convinced in my mind that that is going to happen, and I don't want to be any part of it. I think that we ought to draw the line now and prevent going

down the slippery slope that Senator Humphrey talked about. And I had considered trying to make an amendment and so forth, but the fact is, the only amendment that would satisfy my concerns would be to take out the whole subject of artificial nutrition hydration, and I'm sure that the sponsors and the body wouldn't go along with that, so I simply don't want anything to do with the bill. I want to vote against it. I want to be on the record for posterity as being against it, and I would like to get a roll call, because I want the whole body to be on the record, one way or the other.

SENATOR ROBERGE: I'd like to bring into focus a situation that happened in my family. My mother was a registered nurse for 40 years and took care of many people who were dying. My mother married my stepfather about 25 years ago, and when they got married they promised each other, that if anything happened to the other person, they would not allow anything extra to be done to preserve their life. Two years ago, my stepfather went into the hospital for some tests and my mother left him there and came back the next day and the bed was empty. She wanted to know where he was. They had taken him to intensive care. She found him in intensive care on a ventilator. When he woke up, he was very disturbed that he was on this ventilator. And I was with her, she called me up and I spent the whole time with her, and eventually he got out of intensive care, but he was still on the ventilator, and every time we would go to visit him, he would look at my mother, he had a tube in his nose, and a tube in his throat, couldn't talk, and he would look at my mother and he was mad, he would just be mad and he would just stare at her. And she would say: I know John, I know, she said; I can't do anything about it, I've talked to the doctor. She would go to the doctor crying, and I know this because I was with her. Please remove the ventilator. He said no. He said: I can't remove it, it's already in. So finally, he was on it for about two weeks. By that time the sides of his mouth were cut and scabbing because, of course, it cuts your mouth, and it cuts your nose, and it's a tough machine to be on. He was still mad. Finally, also his arms were tied to the sides of the bed with straps. Finally, after two weeks, he pulled that ventilator tube out with his knees and the doctor said; alright, I won't put it back in, and he died the next day. And I'll tell you that I will vote for this legislation, because of my stepfather and because my mother would like this legislation, and if you don't agree with it, you don't have to sign the papers. It's just that simple. My mother wants a living will. She feels that it's extremely important and so do I.

SENATOR J. KING: I sat through the long session that came out with the decision to pass this legislation, to suggest that it be passed. I'm certainly not one that takes lives un-seriously, I'm very



concerned about life. Before birth, if you're in this world for ten days, or if you're here for 100 days, I'm certainly very, very concerned about it. I think the convincing thing, as far as I'm concerned, and as Senator Roberge just said, it's a voluntary thing, it's a voluntary thing. You don't have to do it. There is no law that says that you have to do it. I think the second thing is, it's very important what you put in that will, very important what you put in that document. If you have a good lawyer, you will end up with just what you want in that document. You can put anything in there at all. You can say if I can't chew without my teeth, then do what you have to do. But whatever is in there, is the only thing that they can do. You can change it. One day later, ten days later, ten years later. There is nothing that says that you have to follow through with it. If it's a question of whether the hospitals or the doctors take things on their own, that is a different issue altogether. That has nothing to do with the document that you have, that's a different situation. Again, the convincing part of this is, that it's entirely voluntary. It's done with your best friends, with your attorneys, with your doctors, with all the people who mean a great deal to you. That is basically the reason that I went along with the law and I suggest that you people do the same.

SENATOR HOLLINGWORTH: I'm only going to be brief, because you've all done a wonderful job. Sheila told a story that happened exactly to me, and so I understand. I would like to add that the reason why it's necessary to have the removal of artificial food and water, is because it is no longer constitutional. The U.S. Supreme Court has ruled that you have the right to withhold anything that you determine as long as you make your case clear and it is known to the other members of your family, and it is understood that these are your intentions. So what we presently have on the books in New Hampshire, is unconstitutional by the U.S. Supreme Court. It will not hold up. If you put down that you want to have water and food removed if it's artificially given to you, then that is the law and that is the way the court will interpret it. There is no need for us to have on our books, something that is not recognized under the constitutions. So what we are doing is just making our law constitutional. Further, there is one thing that hasn't been discussed and when my husband was facing death and had leukemia, what he was most concerned about, was that the difficulty of the decision that I would be placed in, if I had to make the decision to remove artificial equipment that was keeping him alive. And that tormented him, because in Massachusetts, at that time, there was no mechanism, and that's where he was being treated, to take and say that I do not want this equipment attached to me. And he begged, daily, to keep him aware

and his consciousness about him. He demanded that I read the newspaper to him, tell him the time of day it was, over and over again, because he wanted to be able to convey what he wanted for treatment. He felt that his whole life savings, educating his children was the most important thing to him. He knew that he could not survive and the very idea that his children would never be able to go to college, or that they may lose their home, was a torment to him. So the bill has more than just the meaning of making your will known. It protects you, knowing that if you should slip into unconsciousness and not be able to make the decisions, that your family will not have to make that terrible decision, that those things should not be done for you. He knew that I would not be capable of saying: don't go on, and he wanted to be able to. So I think that's one point that hasn't been brought up, all the others are valid. This is a good piece of legislation and I hope that you will support it.

SENATOR HUMPHREY: I would like to address the bill. Senator Roberge, has provided us with a very moving example of the difficulties which medical technology sometimes present. But I, without anyway seeking to undermine the power of that example, I would like to point out that there is already a remedy on the statutes for that kind of a situation. Any one of us, age 18 or over, can, under RSA 137-H:3, execute a terminal care document, a living will. That remedy is already available. That is not what is before us today, the question of whether or not we can execute a terminal care document. That isn't the question, that has already been decided. I don't know when it was, but it was before I got here. The question before us today, is something new, whether we can appoint an agent who can act on our behalf when we are unconscious. And I am suggesting to my colleagues, that the consent, the consent agreement, consent statement, is so full of loopholes as to allow a situation where an elderly person who is in a coma because of lack of insulin can be denied that insulin, by the act of an agent under this bill and furthermore, if the hospital refuses to follow the agent's guidance, the agent can do this, here it is right in the bill on page seven, the amendment When the direction of an agent requires an act or omission contrary to the moral or ethical principles or other standards of a health or residential care provider, the care provider shall, not may, but shall, shall allow for the transfer of the patient to another facility which will let the agent kill the patient. This thing is a thicket, ladies and gentlemen. It is not the living will, that question has already been decided. And if some think that our existing living will statute is unconstitutional, that's news to me. It hasn't been rejected by any court as yet, but if that's the concern, then amend to your pleasure,



the living will statute, but this before us is something entirely new. It's a giant step forward towards euthanasia, and I hope that Senator's will give it a second thought.

SENATOR NELSON: Senator Humphrey, did I understand you to say that even without this document, it's possible for you to let people know what kind of treatment you want, and there is another document that's available in this state?

SENATOR HUMPHREY: Yes.

SENATOR NELSON: Thank you.

Senator Russman moved the question.

Adopted.

### **Amendment to SB 66**

Amend the bill by replacing all after section 1 with the following:  
2 New Chapter; Durable Power of Attorney for Health Care.  
Amend RSA by inserting after chapter 137-I the following new chapter:

#### **CHAPTER 137-J**

##### **DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

137-J:1 Definitions. In this chapter:

I. "Agent" means an adult to whom authority to make health care decisions is delegated under a durable power of attorney for health care.

II. "Artificial nutrition and hydration" means invasive procedures such as but not limited to the following: nasogastric tubes; gastrostomy tubes; intravenous feeding or hydration; and hyperalimentation. It shall not include the natural ingestion of food or fluids by eating and drinking.

III. "Attending physician" means the physician, selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient.

IV. "Capacity to make health care decisions" means the ability to understand and appreciate the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care.

V. "Durable power of attorney for health care" means a document delegating to an agent the authority to make health care decisions executed in accordance with the provisions of this chapter. It shall not mean forms routinely required by health and residential care providers for admissions and consent to treatment.

VI. "Health care decision" means consent, refusal to consent, or withdrawal of consent to any care, treatment, admission to a health care facility, any service or procedure to maintain, diagnose, or treat an individual's physical or mental condition except as prohibited in this chapter or otherwise by law.

VII. "Health care provider" means an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care, for profit or otherwise, in the ordinary course of business or professional practice.

VIII. "Life-sustaining treatment" means procedures without which a person would die, such as but not limited to the following: cardiopulmonary resuscitation, mechanical respiration, kidney dialysis or the use of other external mechanical or technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.

IX. "Principal" means a person 18 years of age or older who has executed a durable power of attorney for health care.

X. "Residential care provider" means a "facility" as defined in RSA 161-F:11, IV, a "nursing home" as defined in RSA 151-A:1, IV, or any individual or facility licensed, certified or otherwise authorized or permitted by law to operate, for profit or otherwise, a residential care facility for adults, including but not limited to those operating pursuant to RSA 420-D.

#### 137-J:2 Scope and Duration of Authority.

I. Subject to the provisions of this chapter and any express limitations set forth by the principal in the durable power of attorney for health care, the agent shall have the authority to make any and all health care decisions on the principal's behalf that the principal could make.

II. After consultation with the attending physician and other health care providers, the agent shall make health care decisions in accordance with the agent's knowledge of the principal's wishes and religious or moral beliefs, as stated orally or otherwise communicated by principal to agent, or as contained in the durable power of attorney for health care or in a terminal care document executed pursuant to the provisions of RSA 137-H; or if the principal's wishes are unknown, in accordance with the agent's assessment of the principal's best interests and in accordance with accepted medical practice.

III. Under a durable power of attorney for health care, the agent's authority shall be in effect only when the principal lacks capacity to make health care decisions, as certified in writing by the principal's attending physician and filed in the principal's medical record. When and if a person regains capacity to make such decisions, such event shall be noted in the principal's medical record. A



durable power of attorney for health care may include a provision that, if the principal has no attending physician for reasons based on his religious or moral beliefs as specified in the durable power of attorney for health care, a person designated by the principal in the durable power of attorney for health care may certify in writing, acknowledged before a notary or justice of the peace, as to the lack of decisional capacity of the principal. The person so designated by the principal shall not be the agent, or a person ineligible to be the agent.

IV. Notwithstanding that a durable power of attorney for health care is in effect and irrespective of the principal's lack of capacity to make health care decisions at the time, treatment may not be given to or withheld from the principal over the principal's objection. The principal's attending physician shall make reasonable efforts to inform the principal of any proposed treatment, or of any proposal to withdraw or withhold treatment.

V. Nothing in this chapter shall be construed to give an agent authority:

(a) To consent to voluntary admission to any state institution;

(b) To consent to a voluntary sterilization; or

(c) To consent to withholding life-sustaining treatment from a pregnant patient, unless, to a reasonable degree of medical certainty, as certified on the patient's chart by the attending physician and an obstetrician who has examined the patient, such treatment or procedures will not maintain the patient in such a way as to permit the continuing development and live birth of the unborn child or will be physically harmful to the patient or prolong severe pain which cannot be alleviated by medication.

#### 137-J:3 Use of Statutory Forms.

I. Every person wishing to execute a durable power of attorney for health care shall be provided with a disclosure statement substantially in the form set forth in RSA 137-J:14 prior to execution. The principal shall be required to sign a statement acknowledging that he has received the disclosure statement and has read and understands its contents.

II. A durable power of attorney for health care executed on or after the effective date of this chapter shall be substantially in the form set forth in RSA 137-J:15.

III. Artificial nutrition and hydration may not be withdrawn or withheld under a durable power of attorney for health care unless there is a clear expression of such power in the document.

137-J:4 Restrictions on Who May Act as Agent. A person may not exercise the authority of agent while serving in one of the following capacities:

I. The principal's health care provider.

II. A nonrelative of the principal who is an employee of the principal's health care provider.

III. The principal's residential care provider.

IV. A nonrelative of the principal who is an employee of the principal's residential care provider.

137-J:5 Execution and Witnesses. The durable power of attorney for health care shall be signed by the principal in the presence of 2 or more subscribing witnesses, neither of whom shall, at the time of execution, be the agent, the principal's spouse or heir, or a person entitled to any part of the estate of the principal upon death of the principal under a will, trust or other testamentary instrument or deed in existence or by operation of law. No more than one such witness may be the principal's health or residential care provider or such provider's employee. The witness shall affirm that the principal appeared to be of sound mind and free from duress at the time the durable power of attorney for health care was signed and that the principal affirmed that he was aware of the nature of the document and signed it freely and voluntarily. If the principal is physically unable to sign, the durable power of attorney for health care may be signed by the principal's name written by some other person in the principal's presence and at the principal's express direction.

137-J:6 Revocation.

I. A durable power of attorney for health care shall be revoked:

(a) By notification by the principal to the agent or to a health or residential care provider orally, or in writing, or by any other act evidencing a specific intent to revoke the power;

(b) By execution by the principal of a subsequent durable power of attorney for health care; or

(c) By the filing of an action for divorce of the principal and spouse, where the spouse is the principal's agent, except when there is an alternate agent designated, in which case the designation of the spouse shall be revoked and the alternate designation shall become effective. Re-execution or re-affirmation of the durable power of attorney for health care following filing for divorce shall make effective the designation of the former spouse as agent under the durable power of attorney.

II. A principal's health or residential care provider who is informed of or provided with a revocation of a durable power of attorney for health care shall immediately record the revocation in the principal's medical record and notify the agent, the attending physician, and staff responsible for the principal's care of the revocation. An agent who becomes aware of such revocation shall inform the principal's health or residential care provider of such revocation.



137-J:7 Inspection and Disclosure of Medical Information. Subject to any limitations set forth in the durable power of attorney for health care by the principal, an agent whose authority is in effect may for the purpose of making health care decisions:

I. Request, review, and receive any information, oral or written, regarding the principal's physical or mental health, including, but not limited to, medical and hospital records.

II. Execute any releases or other documents which may be required in order to obtain such medical information.

III. Consent to the disclosure of such medical information.

137-J:8 Action by Provider.

I. A principal's health or residential care provider, and employees thereof, having knowledge of the principal's durable power of attorney for health care, shall be bound to follow the directives of the principal's designated agent to the extent they are consistent with this chapter and the durable power of attorney for health care.

II. When the direction of an agent requires an act or omission contrary to the moral or ethical principles or other standards of a health or residential care provider of which the principal is a patient or resident, the care provider shall allow for the transfer of the patient to another facility and shall incur no liability for its refusal to carry out the terms of the direction by the agent, provided that the health or residential care provider shall inform the agent of its decision not to participate in such an act or omission.

137-J:9 Freedom from Influence. No health care provider or residential care provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan shall charge a person a different rate because of the existence or non-existence of a durable power of attorney for health care or require any person to execute a durable power of attorney for health care as a condition of admission to a hospital, nursing home, or residential care home, or as a condition of being insured for, or receiving health or residential care. Health or residential care shall not be refused because a person has executed a durable power of attorney for health care.

137-J:10 Reciprocity. Nothing in this chapter limits the enforceability of a durable power of attorney for health care or similar instrument executed in another state or jurisdiction in compliance with the law of that state or jurisdiction. However, any exercise of power under such a foreign durable power of attorney or similar instrument shall be restricted by and in compliance with the requirements of this chapter and the laws of the state of New Hampshire.

137-J:11 Immunity.

I. No person acting as agent pursuant to a durable power of attorney for health care shall be subjected to criminal or civil liability for making a health care decision in good faith pursuant to the terms of the durable power of attorney for health care and the provisions of this chapter, if such person exercised such power in a manner consistent with the requirements of this chapter and New Hampshire law.

II. No health or residential care provider, or any other person acting for the provider or under the provider's control, shall be subjected to civil or criminal liability or be deemed to have engaged in unprofessional conduct, for any act or intentional failure to act done in good faith, if the act or intentional failure to act is done pursuant to the dictates of the durable power of attorney for health care, the directives of the patient's agent, and the provisions of this chapter, or for failure to follow such directive if the health or residential care provider believes in good faith that such directive exceeds the scope of or conflicts with the contents of the principal's durable power of attorney for health care. Nothing in this section shall be construed to establish immunity for the failure to exercise due care in the provision of services or for actions contrary to the requirements of this chapter or other laws of the state of New Hampshire.

137-J:12 Effect of Appointment of Guardian; Inconsistency.

I. On motion filed in connection with a petition for appointment of a guardian or on petition of a guardian if one has been appointed, the probate court shall consider whether the authority of an agent designated pursuant to a durable power of attorney for health care should be suspended or revoked. In making its determination, the probate court shall take into consideration the preferences of the principal as expressed in the durable power of attorney for health care. No such consideration shall change the procedures or burden of proof involved in the guardianship process as otherwise provided by law or procedure. In such consideration, the durable power of attorney for health care and agent appointed shall be presumed to be in the best interest of the principal and valid, absent clear and convincing evidence to the contrary.

II. To the extent that a durable power of attorney for health care conflicts with a terminal care document executed in accordance with RSA 137-H, the durable power of attorney for health care shall control.

137-J:13 Liability for Health Care Costs. Liability for the cost of health care provided pursuant to the agent's decision shall be the same as if the health care were provided pursuant to the principal's decision.



137-J:14 Durable Power of Attorney; Disclosure Statement. The disclosure statement which must accompany a durable power of attorney for health care shall be in substantially the following form:

INFORMATION CONCERNING THE DURABLE  
POWER OF ATTORNEY FOR HEALTH CARE

THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT YOU SHOULD KNOW THESE IMPORTANT FACTS:

Except to the extent you state otherwise, this document gives the person you name as your agent the authority to make any and all health care decisions for you when you are no longer capable of making them yourself. "Health care" means any treatment, service or procedure to maintain, diagnose or treat your physical or mental condition. Your agent, therefore, can have the power to make a broad range of health care decisions for you. Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. Your agent cannot consent or direct any of the following: commitment to a state institution, sterilization, or termination of treatment if you are pregnant and if the withdrawal of that treatment is deemed likely to terminate the pregnancy unless the failure to withhold the treatment will be physically harmful to you or prolong severe pain which cannot be alleviated by medication.

You may state in this document any treatment you do not desire, except as stated above, or treatment you want to be sure you receive. Your agent's authority will begin when your doctor certifies that you lack the capacity to make health care decisions. If for moral or religious reasons you do not wish to be treated by a doctor or examined by a doctor for the certification that you lack capacity, you must say so in the document and name a person to be able to certify your lack of capacity. That person may not be your agent or alternate agent or any person ineligible to be your agent. You may attach additional pages if you need more space to complete your statement.

If you want to give your agent authority to withhold or withdraw the artificial providing of nutrition and fluids, your document must say so. Otherwise, your agent will not be able to direct that. Under no conditions will your agent be able to direct the withholding of food and drink for you to eat and drink normally.

Your agent will be obligated to follow your instructions when making decisions on your behalf. Unless you state otherwise, your agent will have the same authority to make decisions about your health care as you would have had if made consistent with state law.

It is important that you discuss this document with your physician or other health care providers before you sign it to make sure that you understand the nature and range of decisions which may be made on your behalf. If you do not have a physician, you should talk with someone else who is knowledgeable about these issues and can answer your questions. You do not need a lawyer's assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you appoint as agent should be someone you know and trust and must be at least 18 years old. If you appoint your health or residential care provider (e.g. your physician, or an employee of a home health agency, hospital, nursing home, or residential care home, other than a relative), that person will have to choose between acting as your agent or as your health or residential care provider; the law does not permit a person to do both at the same time.

You should inform the person you appoint that you want him or her to be your health care agent. You should discuss this document with your agent and your physician and give each a signed copy. You should indicate on the document itself the people and institutions who will have signed copies. Your agent will not be liable for health care decisions made in good faith on your behalf.

Even after you have signed this document, you have the right to make health care decisions for yourself as long as you are able to do so, and treatment cannot be given to you or stopped over your objection. You have the right to revoke the authority granted to your agent by informing him or her or your health care provider orally or in writing.

This document may not be changed or modified. If you want to make changes in the document you must make an entirely new one.

You should consider designating an alternate agent in the event that your agent is unwilling, unable, unavailable, or ineligible to act as your agent. Any alternate agent you designate will have the same authority to make health care decisions for you.

**THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED IN THE PRESENCE OF TWO (2) OR MORE QUALIFIED WITNESSES WHO MUST BOTH BE PRESENT WHEN YOU SIGN AND ACKNOWLEDGE YOUR SIGNATURE. THE FOLLOWING PERSONS MAY NOT ACT AS WITNESSES:**

- the person you have designated as your agent;
- your spouse;
- your lawful heirs or beneficiaries named in your will or a deed;

**ONLY ONE OF THE TWO WITNESSES MAY BE YOUR HEALTH OR RESIDENTIAL CARE PROVIDER OR ONE OF THEIR EMPLOYEES.**



137-J:15 Durable Power of Attorney; Form. The durable power of attorney shall be in substantially the following form:

### DURABLE POWER OF ATTORNEY FOR HEALTH CARE

I, \_\_\_\_\_, hereby appoint  
\_\_\_\_\_ of \_\_\_\_\_

as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document or as prohibited by law. This durable power of attorney for health care shall take effect in the event I become unable to make my own health care decisions.

### STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS REGARDING HEALTH CARE DECISIONS.

For your convenience in expressing your wishes, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment is defined as procedures without which a person would die, such as but not limited to the following: cardiopulmonary resuscitation, mechanical respiration, kidney dialysis or the use of other external mechanical and technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a section which allows you to set forth specific directions for these or other matters. If you wish you may indicate your agreement or disagreement with any of the following statements and give your agent power to act in those specific circumstances.

1. If I become permanently incompetent to make health care decisions, and if I am also suffering from a terminal illness, I authorize my agent to direct that life-sustaining treatment be discontinued. (YES) (NO) (Circle your choice and initial beneath it.)

2. Whether terminally ill or not, if I become permanently unconscious I authorize my agent to direct that life-sustaining treatment be discontinued. (YES) (NO) (Circle your choice and initial beneath it.)

3. I realize that situations could arise in which the only way to allow me to die would be to discontinue artificial feeding (artificial nutrition and hydration). In carrying out any instructions I have given above in #1 or #2 or any instructions I may write in #4 below, I authorize my agent to direct that (circle your choice of (a) or (b) and initial beside it):

(a) artificial nutrition and hydration not to be started or, if started, be discontinued,

-or-

(b) although all other forms of life-sustaining treatment be withdrawn, artificial nutrition and hydration continue to be given to me.

(If you fail to complete item 3, your agent will not have the power to direct the withdrawal of artificial nutrition and hydration.)

4. Here you may include any specific desires or limitations you deem appropriate, such as when or what life-sustaining treatment you would want used or withheld, or instructions about refusing any specific types of treatment that are inconsistent with your religious beliefs or unacceptable to you for any other reason. You may leave this question blank if you desire.

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(attach additional pages as necessary)

In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as my health care agent, I hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as alternate agent.

I hereby acknowledge that I have been provided with a disclosure statement explaining the effect of this document. I have read and understand the information contained in the disclosure statement.

The original of this document will be kept at \_\_\_\_\_ and the following persons and institutions will have signed copies:

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In witness whereof, I have hereunto signed my name this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Signature \_\_\_\_\_

I declare that the principal appears to be of sound mind and free from duress at the time the durable power of attorney for health care is signed and that the principal has affirmed that he or she is aware of the nature of the document and is signing it freely and voluntarily.

Witness: \_\_\_\_\_ Address: \_\_\_\_\_

Witness: \_\_\_\_\_ Address: \_\_\_\_\_

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.



by \_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission Expire:

137-J:16 Civil Action. Any person who is a near relative of the principal or a responsible adult who is directly interested in the principal by personal knowledge and acquaintance, including but not limited to a guardian, social worker, physician, or clergyman, may file an action in superior court requesting that the durable power of attorney for health care be revoked on the grounds that the principal was not of sound mind or was under duress, fraud, or undue influence when the durable power of attorney for health care was executed and shall have all the rights and remedies provided by RSA 506:7 which shall apply to documents executed under this chapter and persons acting pursuant to this chapter.

3 Applicability. Nothing in this act is intended to affect the validity or enforceability of durable powers of attorney as they pertain to health care executed prior to the effective date of this act.

4 Effective Date. This act shall take effect 60 days after its passage.

Senator Colantuono requested a Roll Call.

Seconded by Senator Humphrey.

Recess.

Out of recess.

Senator Dupont in the Chair.

The following Senators voted Yes: Oleson, W. King, Heath, Fraser, Hough, Currier, Disnard, Roberge, Blaisdell, Bass, Pressly, McLane, J. King, Russman, St. Jean, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Nelson, Colantuono, Podles, Humphrey, Delahunty.

Yeas: 18

Nays: 5.

Committee Amendment Adopted.

Senator Colantuono in opposition to SB 66.

Ordered To Third Reading.

### TAKEN OFF THE TABLE

Senator Currier moved to Have SB 123, an act relative to the wine industry of New Hampshire, Removed Off The Table.

SB 123, is OFF THE TABLE.

SB 123, an act relative to the wine industry of New Hampshire. Ways and Means committee. Inexpedient to Legislate. Senator McLane for the committee.

Senator McLane defers to Senator Currier.

Recess.

Out of recess.

Senator Hough in the chair.

### SUBSTITUTE MOTION

Senator Russman moved to substitute Ought To Pass for Inexpedient To Legislate.

Adopted.

Senator Russman offered a floor amendment.

SENATOR RUSSMAN: Yes, and the floor amendment that I believe is either being passed out, it's 123-FN, floor amendment to 123-FN, #2313L. Yes, I will speak to the floor amendment. Originally this bill was brought back by the committee as inexpedient to legislate, because we thought that the legislation went to far in terms of the, essentially the wine dealer in New Hampshire. He has been having trouble with the liquor commission and they de-listed his product. And that has put him in a financial bind, whether they did so rightfully or wrongfully, we're not sure, but through the ways and means committee, they have actually put his items, New Hampshire wines back on the shelves. And I believe he made his first delivery yesterday to see that his wine is back on the shelves. Now there is a second problem that this amendment hopefully, will address. And that is how much percent of New Hampshire grapes should there be, in New Hampshire domestic wines? Now obviously, if this particular fellow had his way, there could be zero percent and just bottle it here, but the problem of that opens the doors to companies like Gallo and others that come in here and they only pay us 5 percent, so that is not a good idea, because we are trying to actually make the domestic wines sales greater. So, we came up with this amendment that is going to allow the commission and we, hoping that they will act in good faith, if they don't, I'm sure that we will be back here. They have said that they will confer with the commissioner of Agriculture to determine what the percent should be in years when New Hampshire has a good grape harvest and what it should be in years that it doesn't. Recognizing this bill will also go over to the House and that might be helpful also, because I understand that the commission had continued to attempt to negotiate on this matter with a



particular interested individual, and hopefully this will resolve the problem with the two of them. This is at least a starting point to help his business here in New Hampshire and to have a domestic wine on the shelves and market it as such. The other bill as it was I think, went too far. And so I would urge your adoption of the amendment and then passage of the bill as amended so that we can get it over to the House and let them take a look at it at this time.

### Floor Amendment to SB 123-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Definition of Domestic Wine. Amend RSA 175:1, LXVII to read as follows:

LXVII. "Wine-domestic" means any wine containing more than 6 percent alcohol by volume and not more than 24 percent alcohol by volume, which is manufactured or bottled in this state from grapes or other fruits grown in [this] **the** state, or brought into the state in their natural state for the purpose of fermentation and blending with wine produced from New Hampshire grapes or fruits, or wine which is brought into this state by a manufacturer to be blended with wine produced from New Hampshire grapes or fruits by a winery located in this state. The percentage **blend** of New Hampshire wine shall be [at least 5 percent] **approved by the commission**.

2 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill redefines the term "wine-domestic."

Floor Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

### TAKEN OFF THE TABLE

Senator W. King moved to Have SB 63-FN, an act relative to the definition of ski craft, Removed Off The Table.

Adopted.

SB 63-FN, is OFF THE TABLE.

SB 63, an act relative to the definition of ski craft. Wildlife and Recreation committee. Inexpedient to Legislate. Senator W. King for the committee.

SENATOR W. KING: Mr. President, the committee took a look at this bill which expands the definition of ski craft and felt that it

would effect other small crafts on lakes and that it was not appropriate for us to take action on, a positive action on this, so we recommend inexpedient to legislate.

Committee Report Adopted.

### **TAKEN OFF THE TABLE**

Senator Delahunty moved to Have SB 70-FN, an act relative to superior court clerks for Hillsborough County, Removed Off The Table.

Adopted.

SB 70-FN, is OFF THE TABLE.

SB 70-FN, an act relative to superior court clerks for Hillsborough county. Internal Affairs committee. Inexpedient to legislate. Senator Delahunty for the committee.

Recess.

Out of recess.

Senator Dupont in the Chair.

### **SUBSTITUTE MOTION**

Senator Delahunty moved to substitute Ought To Pass for Inexpedient To Legislate.

Adopted.

SENATOR DELAHUNTY: The floor amendment that is being passed out now, is very simple. As originally drafted, SB 70 mandated that a second clerk would be hired in Hillsborough county. The floor amendment authorizes the hiring of this second clerk for the Nashua Court House, but leaves it up to the discretion of the court to do so. All we are actually changing are the words, shall to may, on lines two and four. And we ask your support of this amendment.

Senator Delahunty offered a floor amendment.

Recess.

Out of recess.

SENATOR COLANTUONO: Senator Delahunty, under this amendment as I read it, it's possible for example, if the present clerk of Hillsborough county resigns, that the judges don't have to fill this vacancy or appoint anyone in Nashua. Isn't that possible under this legislation?

SENATOR DELAHUNTY: If the present clerk resigns, they don't have to reappoint him?

SENATOR COLANTUONO: Yes.



SENATOR DELAHUNTY: I think that's the way the set-up is now, Senator.

SENATOR COLANTUONO: The present law says that the justices of the court shall appoint a clerk for each county. I believe it reads that way, anyway. So by changing may in both places, aren't we basically allowing the situation where in Hillsborough county, we may end up with no clerk?

SENATOR DELAHUNTY: Senator, the amendment appoints a clerk for each county, except in Hillsborough county a clerk may be appointed for a court facility in Manchester and also for the facility in Nashua. I'm not sure that I understand . . .

SENATOR COLANTUONO: I guess my question amounts to whether we should further amend this to say, however there shall be at least one clerk appointed for Hillsborough county, at all times.

SENATOR DELAHUNTY: I think this leaves that up to the discretion of the court and the reason for it being that it would not necessarily be filled.

SENATOR NELSON: Senator Delahunt, is what you're suggesting is that the court would retain, the court would retain the right in Hillsborough county, to put a clerk in Hillsborough and/or, excuse me, in Manchester and/or Nashua?

SENATOR DELAHUNTY: Thank you so much Senator, for expressing what I'm trying to, supporting what I am trying to express, you did very well, yes.

SENATOR NELSON: Thank you.

Recess.

Out of recess.

### **Floor Amendment to SB 70-FN**

Amend RSA 499:1 as inserted by section 1 of the bill by replacing it with the following:

499:1 Appointment. The justices of the superior court shall appoint a clerk for each county; except that for Hillsborough county a clerk may be appointed for the court facility in Manchester serving the northern district of Hillsborough county and a clerk may be appointed for the court facility in Nashua serving the southern district of Hillsborough county. Any clerk may be removed at the pleasure of the court in accordance with personnel rules established by the supreme court.

Senator Delahunt moved the question.

Adopted.

Floor Amendment Adopted.

Ordered To Third Reading.

### **TAKEN OFF THE TABLE**

Senator W. King moved to Have SB 193-FN, an act relative to limits on motorboats speeds, Removed Off The Table.

Adopted.

SB 193-FN, is OFF THE TABLE.

SB 193-FN, an act relative to limits on motor boats speed. Wildlife & Recreation committee. Inexpedient to Legislate. Senator W. King for the committee.

### **SUBSTITUTE MOTION**

Senator W. King moved to substitute Ought To Pass for Inexpedient To Legislate.

Adopted.

SENATOR W. KING: We're passing out the amendment right now. Recognizing as the commissioner of Agriculture in Texas, Jim Hytower, says, "there ain't nothing in the middle of the road but yellow lines and dead armadillos". This is a compromise amendment. The compromise is this. As you all know, we have had a flood of mail on both sides of the speed limit issue and the major concern that came up on our committee hearing, was an economic concern. It's a concern that many of us shared. Because Massachusetts had instituted a speed limit there were more boaters coming to New Hampshire to use the lakes. There are more people buying products in the state of New Hampshire and we felt that those of us who worked on this compromise, Senator Russman, Senator McLane, and myself, that we recognized this economic issue and that the best way to deal with that, was to have a speed limit on the smaller lakes in the state of New Hampshire, where it is legitimately, not very easy to go 45 mph for more than one or two seconds anyway. And to say that on lakes that are 3400 acres or more, that there would be an exemption. So what this amendment does, is say that the speed limit will be 45 mph during the day, 20 mph at night, except on lakes that are 3400 acres or larger. This would include really just the five largest lakes in the state of New Hampshire where legitimately, it can be argued that there are areas where you can have faster speeds on the lake. Those five lakes would then be subject to a hearing process through the Department of Safety. One of the other issues that came up as Sena-



tor Currier will attest, during this whole discussion, was the fact that the Department of Safety, was reluctant to do anything about this even though they did have the power to have hearings on speed limits on lakes. That is really a political issue. This bill says that the Department of Safety shall have a hearing upon the request of 100 individuals or more, from that area on that lake to determine whether speed limits are legitimate on that lake and to determine other areas where they might be able to have higher speeds than that. We ask that you accept this amendment and pass it onto the House.

SENATOR HEATH: The objection that I would raise to this kind of legislation. We hire professionals and this is really an attempt to reach in and sort of micro-manage. We don't have the time to micro-manage so we do it in a sort of blanket sort of way. We lay an overall speed limit. But the effect of speed on lakes has to do with a number of conditions and it has to do with the distance to shore lands and coves. It has to do with the depths and the material that is on the bottom, whether it's sand or weeds and so on. Weeds absorb wave motion more than sand. The present situation is that the Department of Safety can look at each area and each lake as a whole and in part and then designate what they think is an appropriate speed limit. I guess I'd argue that if we're going to pay for that kind of expertise, and god knows that we are paying for it. Let's use it. I think we should be out of the business of managing each department in the microscopic kind of way and we should as we have, continue to allow these departments to have hearings and to look at individual areas and individual lakes and make a conclusion where the public has a chance for input, and everyone else that has an interest, has a chance for input and let them decide these, lake by lake, cove by cove.

SENATOR MCLANE: As the state of New Hampshire owns and controls the highways of this state and as we make decisions having to do with the maximum speed on those highways, it is time that we made this decision on our lakes. The state of Connecticut, the state of Massachusetts, both have 45 mph speed limits on their lakes. The state of Vermont, and the state of Maine are contemplating similar legislation. What's happening, is that the speedsters that can't have their fun at home in Massachusetts are now coming up to our lakes. For every speeding boat, and I can define speeding as over 45. Forty-five is a hell of a clip to go in a boat. You can barely water ski, if you have two water skiers at that speed. For any of the sports or any of the enjoyment that people have, 45 is plenty. But when you go over that, it gets dangerous and it ruins the fun and the pleasure for others, particularly those in slower boats or swimmers. What we

have done in the compromise is say that our overworked Safety Department should not set up public hearings for 700 lakes, which is what we have. But there are only seven lakes that are bigger than four miles across or wide. Moore Reservoir is 3.8 and that is one of the seven that we have picked, and for that reason we have picked the acreage of 3400. Because it seems possible if you have a four mile lake and you have a boat that is going 60 miles mph, they can get across it in four minutes. But maybe that's a thrill worth having. But it is absurd on the small lakes to allow a boat to go faster than 45. And the Safety Department should not be forced into having public hearings on all those little lakes, because I think any thinking person would agree, that if a lake is less than four miles long, it should take you a little longer than four minutes to get across it from side to another. For that reason, as Senator King said, we put a good compromise in which is public hearings on lakes of any size that could take the cigarette boats and the boats that go over 45 mph, or, and I want to point out at this point, and this point was made very nicely at the hearing about MG's, those expensive, fancy cars, Alfa Romaros and such. We're not saying that you can't have a cigarette boat, we're not saying that you can't have a speedy craft, we're just saying that on little lakes you shouldn't pull it full throttle and go over 45 and on bigger lakes I assume that what we are going to have with 100 signatures on a petition is a public hearing which then the Department of Safety could say this cove it's alright to go 60, the Broads it's alright to go 100, but within this many miles of shore, or feet of shore and around this island and in this little bay here, New Hampshire has a speed limit. And we have a speed limit because we love our lake.

SENATOR RUSSMAN: I will be brief given the length of the day that we still have ahead of us. Basically, it's like allowing speeding in the neighborhood and we don't allow speeding in our neighborhoods. In a lake that I happen to live on and the number of lakes that I have in my district, they are very much interested in having reduced speeds. It represents a serious threat and many times on a Sunday afternoon when high speed boats do happen to come onto the lakes the people that normally would be out there, get off the lakes. I think what we are going to see over a period of time, well I guess what we hope to see, is actually more boats on our lakes. We hope to see that in terms of revenues and recreation, and tourism, and we need to think about that in terms of what can we all go out there on a Sunday or a Saturday afternoon when most people are out there and I think that this is certainly a reasonable type of thing. I like to go fast myself, as Senator Delahunty knows, having followed me I guess, one morning. But, and I think that we all like to do that, but



there is a time and a place for everything. I think on the vast, vast majority of lakes that we have that are small lakes, 45 mph is more than adequate. And that is well in excess of when most people would pull a skier and it certainly would give a thrill if you went 45 mph across the waters. So I do urge you to support the amendment to this bill.

SENATOR CURRIER: I rise in opposition to the pending motion. I can count, and my boat as a public safety feature says I can have not 15, but 14 passengers on my 24' pontoon boat and with 14 people on my pontoon boat, I can't go 55 mph, O.K.; however, the statute that we have on the books today dealing with boat speed, the Department of Safety has the authority right now to regulate boat speeds. Each lake in the state of New Hampshire is unique. And I trust that because of that uniqueness that's why we have the statute that is on the books today. I'm as much an environmentalist as Susan McLane, or anybody else in this room, but I'm an avid boater, and a 24 year veteran of the United States Coast Guard, in terms of boating safety, I think I know most of the rules of the road. The restrictions that are outlined in RSA 270:12, have already got in place somewhere near 72 restrictions, including miscellaneous areas of lake Winnepesaukee. I think that the micro management of the Department of Safety, I'm not sure the Division of the Department of Safety, but Senator Heath referred to, is in fact doing a good job with that. You have to remember, we're not going to be putting on anymore marine patrol people, and we're obviously not going to be putting anybody from the state police onto the lakes. And Meldrim Thomson, in 1976 told the Coast Guard, to stay out of New Hampshire, so they're obviously not going to be there to enforce this 55 mph law. So, I would suggest that the defeat of this amendment. I would like to read this letter, because I think part of the problem that we have is not only speed, but it's reckless operation and in fact a wanton disregard for safety. I would think that most of you got these letters. We all got letters regarding the big boats, that had their registration tags on the bottom that showed how much they paid for their registrations, but it didn't tell how much they spent, in things like the tourist industry does when they say that they come and they spend \$67 for other things like motels and everything else. But this letter says: Dear Senator: I am not in favor of the proposed speed limit on New Hampshire lakes. In fact, I observed unsafe boating practices, unrelated to speed without any in fault whatsoever. I think boating safety could be improved, be better, in fault of existing laws and through the education and training of new and inexperience boaters. I talked with the safety inspector last year, and he stated that there aren't enough law enforcement personnel to

patrol the lakes and enforce the safe boating laws. Stricter enforcement of existing boating laws should be tried, prior to the imposition of a state speed limit, which would only serve to infringe upon the freedom of those of us who enjoy the responsibility of high performance boating. And it's signed Richard Edmond, of Northwood, New Hampshire. I would suggest that if the big lakes, and the big boats are really the problem, then this Senate needs to vote down the pending motion, and pass the real bill, which I am opposed to. Thank you.

SENATOR MCLANE: Senator Currier, I wonder if you feel that the Department of Safety, without any new people or anymore money is going to be able to conduct over 700 public hearings on the lakes that want this very much, or do you feel that the fact that they, the marine patrol, has enough problems with over 75 hp boats. Two-thirds of their stoppings are with over 75 hp boats and that perhaps they would welcome this bill as they did in our committee?

SENATOR CURRIER: Senator McLane, to answer your question, and this with all due respect. If they were able to have all those damn hearings that you requested for jet skis, they certainly can do it for this.

SENATOR COLANTUONO: Senator Currier, I can't resist asking this question. But if I believe in the philosophy of choice, and I think that people have a right to choose, and the freedom to choose, and the decision as to how fast they should go in their boat, is a private decision between them and their passengers. Would I oppose this legislation and vote against it?

SENATOR CURRIER: Thank you, Senator.

Senator Senator W. King offered a floor amendment.

### **Floor Amendment to SB 193-FN**

Amend RSA 270:12, II-III as inserted by section I of the bill by replacing them with the following:

**II. The maximum speed during daylight hours on the public waters of the state shall be no more than 45 miles per hour.**

**III. The maximum speed between sunset and sunrise on the public waters of the state shall be no more than 20 miles per hour.**

Amend RSA 270:12 as inserted by section 1 of the bill by inserting after paragraph VI the following new paragraph:

**VII. Any lake which is greater than 3,400 acres shall be exempt from the provisions of paragraphs II and III.**

Amend the bill by inserting after section 1 the following and re-numbering the original section 2 to read as 3:



2 New Section; Hearings. Amend RSA 270 by inserting after section 123 the following new section:

270:124 Hearings.

I. The commissioner shall adopt rules pursuant to RSA 541-A establishing procedures for the public hearing process contained in this section. For the purposes of adopting the initial set of rules required by this section the commissioner shall be authorized to adopt emergency rules as provided in RSA 541-A:3-g.

II. Any group of 100 or more residents or property owners of a town in which a lake is located may petition the commissioner to restrict the speed of watercraft on the lake.

III. The commissioner shall hold a public hearing to determine whether to grant a petition submitted pursuant to paragraph II. In determining whether to grant the petition, the commissioner shall take into consideration the following factors:

(a) The impact of watercraft on the environment, the shoreline and wildlife.

(b) The surface area of the lake.

(c) The use or uses which have been established on the lake.

(d) The amount of water-borne traffic.

(e) The necessity of ensuring access to and use of the lake for all individuals and the right of those individuals to appropriate use of the public waters.

(f) Whether a determination is necessary to ensure the safety of persons and property.

IV. The commissioner shall hear all petitions as soon as possible after they are submitted.

V. Any person aggrieved by a decision of the commissioner pursuant to this section may appeal to the commissioner for a review of the record and may appeal from such decision pursuant to RSA 541.

VI. Any restriction on the speed of water craft on a lake imposed pursuant to this section, shall have the full force and effect as if enacted as law.

### AMENDED ANALYSIS

The bill establishes maximum absolute speeds for operating a motorboat on the public water of the state for both daylight hours and hours of darkness and exempts lakes greater than 3,400 acres.

Fines imposed for violations shall be comparable to those imposed for excessive speed of a motor vehicle.

In addition, this bill gives the commissioner of the department of safety the authority to adopt rules and establish procedures for public hearings to ensure compliance with this section.

A Roll Call was requested by Senator McLane.

Seconded by Senator Bass.

The following Senators voted Yes: Oleson, W. King, Hough, Disnard, Blaisdell, Bass, Pressly, McLane, Podles, Humphrey, J. King, Russman, Shaheen, Hollingworth.

The following Senators voted No: Heath, Fraser, Currier, Roberge, Nelson, Colantuono, St. Jean, Delahunty.

Yeas: 14

Nays: 8.

Senator Colantuono not voting, excused.

Floor Amendment Adopted.

Ordered To Third Reading.

### **TAKEN OFF THE TABLE**

Senator Hough moved to Have SB 174-FN an act relative to possessing and dispensing prescription drugs by nonprofit family planning agencies, Removed Off The Table.

Adopted.

SB 174-FN, is OFF THE TABLE.

SB 174-FN, an act relative to possessing and dispensing prescription drugs by non-profit family agencies. Public Institutions, Health & Human Services committee. Inexpedient to Legislate. Senator Hough for the committee.

Senator Hough moved to substitute Ought To Pass for Inexpedient To Legislate.

SENATOR HOUGH: Members please vote in favor of the substitute motion of ought to pass on SB 174. Clearly you understand that there are family planning clinics that are under contract with the state of New Hampshire whose nurse practitioners have the authority in law to dispense medications. What this bill allows for is the same authority to be granted to self sustaining clinics which would not receive state funding. This is not a broadening of any authority that presently exists, it is allowing for a service to be rendered outside of direct state appropriations. Obviously, there are increased needs in this area. With our limited resources, there have been agencies that have put together self sustaining centers that would not tax the resources of the state. And all of the other requirements, conditions, rules, and regulations, would be applied. It's just to allow a self sustaining agency to have the same authority in law, as the state funded agencies.

SENATOR NELSON: Senator Hough, I was trying to listen to everything that you said, and I heard most of it. As you know, we're



co-sponsors of a bill on advanced nurse practitioners in allowing them to dispense medication and the medical community is up in arms on this. I shouldn't say that.

SENATOR HOUGH: There is consensus, Senator Nelson.

SENATOR NELSON: There is consensus. What I'm trying to get at here, the long way home is this: Are we giving to nurses in the field a brand new capability of dispensing drugs?

SENATOR HOUGH: No, we are not. No, we are not.

SENATOR NELSON: Then why are we . . . .

SENATOR HOUGH: There are agencies who are under contract with the state of New Hampshire, and they are receiving state funds. The law allows for them to dispense prescriptions. There is a greater need to service than can be provided and accommodated by those agencies to expand the capability. There have been developed similar services that are provided on a self sustaining basis and not a tax on the resources of the state. We are allowing these agencies to come under the present umbrella as a cost saving measure in our delivery of human service.

SENATOR NELSON: Further question. I noticed that the wording on the fourth line of the bill, line 6, says: or by such nurses in clinics. On the top line we use the word advanced practitioners or register nurses. Are we suggesting on the sixth line of that bill, does the "such nurses" refer to them, or does that refer to license practical nurses, or LPN's, or does that refer back to the nurses on line three, excuse me, line four?

SENATOR HOUGH: It refers to the nurses who are presently covered by the existing law. The question is under contract and I would tell you, Senator Nelson, that I wasn't sure, when I read this again, and I have gone to Legislative Services and again, I have been told that what we are only doing is extending the present law that accommodates agencies receiving state monies under contract with the state to be extended to be self sustaining non state funded agencies. If we are not to do this, and they can't exist, there will be increased demand to provide greater state funding.

SENATOR NELSON: I don't understand what this other state funding planning, you know, in other words, what you're saying is; we are broadening the law to allow nurses who are already allowed to, under another statute, to prescribe non controlled medication in a family planning agency?

SENATOR HOUGH: That is not funded by the state of New Hampshire.

SENATOR NELSON: And this is a brand new avenue into which we are traveling?

SENATOR HOUGH: No. Were we not to do this, we could use our resources for more contact with these agencies. But we can't afford it. So that the self sustaining ones come under the same umbrella.

SENATOR PODLES: Senator Hough, would you agree with me that this bill allows additional family planning clinics to operate to dispense prescription drugs on site?

SENATOR HOUGH: Yes.

SENATOR PODLES: Could you tell me what are the prescription drugs?

SENATOR HOUGH: I assume the prescriptions and the drugs that are prescribed in family planning clinics.

SENATOR PODLES: Such as?

SENATOR HOUGH: I'm aware of them, I don't know too much about them.

SENATOR PODLES: Such as?

SENATOR HOUGH: Well, what is the answer, do you want . . . .

SENATOR PODLES: I would like the definition of prescription drugs.

SENATOR HOUGH: I would assume, Senator Podles, that if I were to go to a family planning clinic and received whatever it is, prescription drug, I would be receiving birth control pills, is that the answer that you wanted me to give you?

SENATOR PODLES: Would you believe, Senator Hough, would you believe, that it includes contraceptives too, on site?

SENATOR HOUGH: I'm not sure that I want to touch that on site . . . . Eleanor, if we wanted to make a broader issue, so be it. If we are trying to accommodate a legitimate need that is addressed by the Department of Health and the Department of Human Services, which has been phased with cutbacks in resources, you want to vote for this bill. If we want to address the larger policy issue, I'm not the one that you want to talk with, but I'll debate it with you.

SENATOR W. KING: I'm going to be very brief. The point here is that we are in very difficult economic times. What we in the Senate are looking to do is to find ways to provide more services for less dollars. This bill does exactly that, more services for less dollars. If you go down to Manchester today, you will see Planned Parenthood



of Northern New England has a family planning clinic in Manchester, that has been there since 1987. They are not using one cent of state dollars, but since that clinic was established, the law has changed. The law now says that you may not dispense these prescription drugs unless you are under contract from the state of New Hampshire. All we are saying with this bill, is that even if you are not under contract with the state of New Hampshire, you may dispense those so that we can provide more services to more people in the state of New Hampshire for the same number of dollars that we are currently expending.

SENATOR COLANTUONO: Any Senator that was on the committee that voted against this bill, I want to find out why it came out inexpedient to legislate. Because I don't think that I'm hearing the whole story here, I frankly, smell a rat somewhere, and I want to know what . . . . Senator J. King, why is this inexpedient?

SENATOR J. KING: That bill is inexpedient because three people out of the five disagreed with it.

SENATOR MCLANE: And because the other two weren't there.

SENATOR J. KING: And because I think that some of the feeling was that as a bill, as prenatal care, and we had one on vaccines and so forth and so on and they thought that those same people could use that same service that they provide there, and the other areas which are much more important, are the peoples lives.

SENATOR W. KING: Senator J. King, as I recall in our discussions about this, your comment to me about why your committee opposed the bill was that you felt that this was the camels nose under the tent, and that they would be coming back to the state once they opened the clinics for more money. Correct?

SENATOR J. KING: That is one of the reasons, yes. Would you like to hear the other reasons, too? There are several. But I did possibly say that, I don't remember saying a camel's nose under a tent. I usually don't use the camel, I usually use another identification.

SENATOR W. KING: I should have said the Senator's nose under the tent. Senator King, would you believe that you could make that argument with everything that we do to provide greater services for less dollars in the state of New Hampshire and therefore, you would be preventing us from preventing more service for less dollars in using it.

SENATOR J. KING: I don't agree with that. But I'll give you one other reason, and I think that one of the other reasons that came up is the dispensing of these drugs to young people who aren't 18 or over.

SENATOR SHAHEEN: I would like to echo what Senator W. King said and to point out to the body that particularly for those people who are concerned about the abortion issue, that this is the kind of bill that we ought to be supporting in this state, because it does, it allows for family planning, so that we don't have unintended pregnancies, and it does it at no cost to the state.

SENATOR HUMPHREY: Well, Mr. President. I have mixed feeling about this thing, but I'm looking at the statement filed by the state of New Hampshire, Board of Pharmacy in connection with this bill and I don't regard the Board of Pharmacy as necessarily the last word because, it's comprised of pharmacists, as far as I know. And they have a certain professional point of view, and like other professions, like to exclude anyone who approaches their turf, but nonetheless, they do seem to raise some points that we ought to at least consider. And that is to be licensed to practice pharmacy in this state, you have to have a five-year degree program and pass a national licensing examination as well as an examination to test one's competence and knowledge in the field of state and federal laws. And the Board makes the point that most of those who would be in power to dispense these drugs under this bill, do not approach that level of training or demonstrated competence. And to further make the point that these drugs, which they're dispensing, are not insignificant, are not, I can't find where I read it, but they're not drugs to dispense lightly. These seem like valid points, but on the other hand, I think Senator Shaheen makes some good points, too. So I think that I'll just leave the room.

SENATOR COLANTUONO: Senator W. King, I think I understood you to say that the point of this bill is to give the power to prescribe these drugs to nonprofit family planning clinics who don't have a state contract. Is that correct?

SENATOR W. KING: Yes. That is correct.

SENATOR COLANTUONO: But I'm reading the bill and it says that only ones who are under contract with the Division of Public Health can do this, so, what am I missing?

SENATOR W. KING: That is the current situation. Only those who are currently under contract with the state are allowed to dispense those.

SENATOR NELSON: I would like to just, my concern was the nursing aspect of it and I wanted to just mention that there is some protection for the individual in this, because 31842a would still protect the client, the patient, because the doctor would have to sign and make sure that the nurse prescribing it could prescribe it. OK. That's it. Thank you.



Adopted.

Ought To Pass Motion Adopted.

Ordered To Third Reading.

SB 3-A, an act relative to exit 10 on the Spaulding turnpike and making an appropriation therefor. Capital Budget committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: This bill, SB 3 was introduced by you, Mr. President. And it has to do with the Spaulding turnpike and the so-called exit 10. What has happened is that there was an appropriation, Mr. President, of \$1,000,000 for the study of the area, including environmental impact statement, preliminary engineering, rights-of-way, acquisitions. The bill, in essence, increases the appropriation of \$1,000,000 by \$100,000 which accommodates the shortfall in the course of that study. There are three other parts of the bill having to do with the bonding. Part one, revises the current statute. Part three, relative to conditions for funding subject to recommendations of the study. Part four, provides that the construction of exit 10, may become a project in the turnpike expansion program that should receive a top priority. Mr. Chairman, Mr. President, the guts of the bill is really part two, which increases the appropriation from \$1,000,000 to \$1,100,000. The Capital Budget committee was unanimous in its adoption and we urge its passage.

#### **Amendment to SB 3-A**

Amend 1986, 203:8-C, III as inserted by section 3 of the bill by replacing it with the following:

III. During the period from the effective date of this section to the selection of the recommended alternative for an east-west highway, officials from the city of Somersworth may investigate alternatives for a connector route from an exit 10 on the Spaulding turnpike to the city of Somersworth.

Amendment Adopted.

Ordered To Third Reading.

SB 54-A, an act relative to replacing the Plymouth Bridge on New Hampshire Route 175A in Plymouth and making an appropriation therefor.

Transportation committee. Inexpedient To Legislate. Senator Hough for the committee.

SENATOR HOUGH: The committee reported this bill as inexpedient to legislate after basing their decision on technical information received from the Department of Transportation. Having done so, it has come to our attention after readdressing the question with the

department that we may have acted on faulty information and there will be a subsequent motion made by another member and we would now agree with that motion and if this bill can be corrected, it will so be.

Senator W. King moved to have SB 54-A, Laid on the Table.

Adopted.

SB 54-A, is LAID ON THE TABLE.

**SB 60-A**, an act relative to the Laconia - I-93 connector highway and making an appropriation therefor. Capital Budget committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: Due to some new information, the committee would request that this bill be recommitted to Capital Budget.

Senator Colantuono moved to recommit to Capital Budget.

Adopted.

SB 60-A, is RECOMMITTED to CAPITAL BUDGET.

**SB 117-FN-A**, an act relative to expenditures by the public works bureau, extending certain lapse dates, making adjustments to certain bond authorizations, altering the effective dates of certain fee increases, making certain appropriations, and relative to reassessments of property, class AA dams, and the port authority, and making an appropriation therefor. Capital Budget committee. Ought To Pass With Amendment. Senator Hough for the committee.

SENATOR HOUGH: There is nothing in this bill that this body, each member has not seen recently, nor have they failed to see in HB 1182 that included the state office building and was vetoed by the Governor, at which time the Governor said: "you give me the contents of this bill, minus the state office building and I will sign it immediately". Senators Dupont, Blaisdell, and Hough, drafted this piece of legislation late in the fall with the understanding of the Governor that we would get these projects that we had already authorized and approved up and ongoing in this construction season. There is everything you see, you've seen and approved before.



**Amendment to SB 117-FN-A**

Amend the title of the bill by replacing it with the following:

**AN ACT**

relative to expenditures by the public works bureau, extending certain lapse dates, making adjustments to certain bond authorizations, making certain appropriations, relative to the port authority, and making an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Budget Footnote C. Amend 09 agency income for the estimated source of funds for the public works bureau of the department of transportation in 1989, 365:1. 04, 01, 04, 02 to read as follows:

09 Agency Income C 25,000 25,000

2 Extending Lapse Date for Hampton Harbor Dredging Appropriation. The appropriation made to the department of resources and economic development in 1988, 224:1, IV, D for Hampton Harbor dredging is hereby extended to June 30, 1992.

3 Extending Lapse Date for Skyhaven Airport. The appropriation made to the department of transportation in 1988, 152:1 for additional hangar facilities at Skyhaven airport is hereby extended to June 30, 1992.

4 Ski Area Operations Fund. Amend 1985, 409:17 to read as follows:

409:17 Resources and Economic Development; Special Provisions. There is hereby created in the department of resources and economic development a [Franconia/Sunapee snowmaking and grooming] **ski area operations** fund. At the close of each fiscal year, revenue from winter ski operations at Mount Sunapee and Cannon Mountain in excess of \$2,000,000, up to an amount not exceeding [\$200,000] **\$400,000 for operations** shall be deposited in the fund. The fund shall be continuing and nonlapsing. Funds may be used for said purpose only with the prior approval **of the fiscal committee and the approval** of governor and council.

5 Extending Lapse Date for Skyhaven Airport and Audit Fund. The appropriations made to the aeronautics commission in 1981, 565:1, II as amended by 1983, 423:17, 1986, 211:18 and 1989, 367:27, II(j) for the Skyhaven airport and the Skyhaven audit fund is hereby extended to June 30, 1992.

6 Extending Lapse Date for Skyhaven Airport. The appropriation made to the aeronautics commission in 1979, 435:1, III, E as amended by 1983, 423:16 and 1986, 211:14 for the Skyhaven airport, is hereby extended to June 30, 1992.

7 Mason Library - Keene. 1989, 367:2, E is repealed and reenacted to read as follows:

E. Expansion, renovation, and rehabilitation of Mason Library - Keene to include relocation of the Thorne-Sagendorf Art Gallery \$1,770,000

8 Appropriations; Department of Transportation. Amend 1989, 367:1, XII, A by inserting after subparagraph 4 the following new subparagraph:

5. Lebanon Airport - reconstruction of runway 72-5, extend taxiway to runway 7, expand aircraft parking apron associated lighting and other improvements 2,801,450

Less Federal -2,654,005

Net appropriation, subparagraph 5 (state share - 5 percent) \$147,445

9 Total Appropriation. Amend the total appropriation of 1989, 367:1, XII, A to read as follows:

Total appropriation subparagraph A \$[631,756] 779,201

Total state appropriations paragraph XII \$[631,756] 779,201

Total state appropriation section 1 \$[20,388,322] 20,535,767

10 Bond Authorization for Lebanon Airport. Amend 1989, 367:7 to read as follows:

367:7 Bonds Authorized. To provide funds for the total of the appropriations of state funds made in sections 1, 2, and 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [\$38,046,322] \$38,763,767 and for said purposes may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A.

11 Port Authority Business with Foreign Countries. Amend RSA 271-A:3, I to read as follows:

I. Have the authority to make all necessary arrangements with other port authorities of other states and federal departments [and], agencies, **and foreign countries and their port entities** for the interchange of business, and for such other purposes as will facilitate and increase the commerce of the ports, harbors, and tidal navigable rivers of the state.

12 Port Authority Bonds and Notes. Amend 1985, 409:11, IV to read as follows:

IV. To provide funds for the purposes of section 7, the rehabilitation of Barker wharf, the state treasurer is hereby authorized to borrow upon the credit of the state in the amount of \$375,000 and for that purpose shall issue [revenue] bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. The interest and principal due on the bonds or notes issued under this paragraph shall be a direct charge against the New



Hampshire port authority revenues. Prior to issuance of the bonds or notes authorized hereunder, the treasurer may, for the purpose of this section, borrow money from time to time on short-term loans which may be refunded by the issuance of the bonds or notes hereunder; provided, however, that at no time shall indebtedness on such short-term loans exceed the sum of \$375,000.

13 Maturity of New Hampshire Technical Institute Bonds. Amend 1988, 164:2 to read as follows:

164:2 Bonds Authorized. To provide funds for the appropriation made in section 1 of this act, the state treasurer is authorized to borrow upon the credit of the state not exceeding \$3,467,000, and may issue bonds and notes in the name and on behalf of the state of New Hampshire in accordance with the provisions of RSA 6-A, except that, notwithstanding the provisions of RSA 6-A:2, such bonds shall have a maturity of **up to** 30 years from the date of issue.

14 Mount Washington Regional Airport; Whitefield; Berlin Municipal Airport. 1989, 367:1, XII, A, 2 is repealed and reenacted to read as follows:

2.(a) Berlin Municipal Airport, Berlin - reconstruction of hazard beacons and updating of Berlin's airport master plan. \$100,000.

(b) Mount Washington Regional Airport - Whitefield - reconstruct stub taxiway and parking ramp. \$100,000.

15 Appropriation; Department of Administrative Services. The sum of \$11,165,000 is appropriated to the department of administrative services for the biennium ending June 30, 1993, for land acquisition, design, construction, and furnishings of a new courthouse in Rockingham county.

16 Bonding Authorization. To provide funds for the project in section 15 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state in a sum not exceeding \$11,165,000 and for said purposes may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A.

17 Payments. The payment of principal and interest on bonds and notes issued for the project in section 15 shall be made from the general fund.

18 Appropriation; Supreme Court. Amend 1989, 367:19 to read as follows:

367:19 Appropriation; Supreme Court. The sum of \$396,000 is appropriated to the supreme court for the preparation of preliminary design and final design and construction documents for a new facility for the Rockingham county superior and probate courts. [Design of the project shall be done utilizing the generic plans developed for the Hillsborough county courthouse at Nashua.] Design of this project shall be done in such a way as to allow for construction to be done in stages. Preliminary design documents must receive the approval

of the capital budget overview committee, prior to the preparation of final design and construction documents. This appropriation shall be a charge against the court facilities escrow account established pursuant to RSA 490:26-c.

19 Appropriation; Department of Administrative Services. The sum of \$1,200,000 is appropriated to the department of administrative services for the fiscal year ending June 30, 1991, for furnishings and a security system for the superior courthouse in Nashua. This appropriation shall not lapse until June 30, 1992.

20 Bonding Authorization. To provide funds for the appropriation made in section 19 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,200,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A, provided that such bonds shall be 5-year bonds.

21 Payments. The payment of principal and interest on bonds and notes issued for the purposes of section 19 shall be made from the general fund.

22 Lapse Dates Extended. The following lapse dates are hereby extended to June 30, 1992:

I. The appropriation made to the supreme court in 1989, 367:1, XI, A for construction of Concord district court.

II. The appropriations made to the department of transportation in 1989, 367:1, XII, A, 1, 2, 3, and 4 for aeronautics projects.

III. The appropriation made to the aeronautics commission in 1979, 435:1, III, E, as amended by 1983, 423:16 and 1986, 211:14, for Skyhaven.

23 New Paragraph; Maximum Application Fee Charged by Department of Transportation. Amend RSA 482-A:3 by inserting after paragraph IX the following new paragraph:

X. The maximum cash application fee for the New Hampshire department of transportation shall be \$10,000 per application plus provision for technical or consulting services or a combination of such services as necessary to meet the need of the wetlands board. The wetlands board may enter into a memorandum of agreement with the New Hampshire department of transportation to accept equivalent technical or consulting services or a combination of such services in lieu of a portion of their standard application fees.

24 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill appropriates funds for land acquisition design, construction, and furnishings for a new Rockingham county courthouse.



The bill also makes an appropriation for the purchase and installation of furnishings and a security system for the superior courthouse in Nashua.

This bill inserts a budget footnote which allows the public works bureau of the department of transportation to expend revenues in excess of its budget estimate, with the prior consent of the fiscal committee and the approval of the governor and council.

This bill extends certain lapse dates.

The bill also increases the maximum amount of funds, which may be available for winter ski operations at Mount Sunapee and Cannon Mountain, from \$200,000 to \$400,000 each fiscal year.

The bill makes adjustments to certain capital projects' bond authorization.

The bill also allows the port authority to make business arrangements with foreign countries and their port entities.

The bill places a \$10,000 ceiling on the application fee for dredging permits issued by the department of transportation.

Amendment Adopted.

Ordered To Third Reading.

SENATOR HOUGH: Mr. President, may I also say that I did not recognize that the chairman of Capital Budget, Senator Nelson, is co-sponsor of this legislation and I extend to her my apologies for the grievous oversight.

Recess.

Out of recess.

Senator Delahunty in the Chair.

**SB 162-A**, an act relative to rebuilding, modernizing, and maintaining rail properties and making an appropriation for the Conway branch line. Transportation committee. Ought To Pass With Amendment. Senator Shaheen for the committee.

SENATOR SHAHEEN: Yes, you should all have an amendment on page 12 in the calendar, which is what Capital Budget did to this bill. We had two concerns, I think. Two based on the original floor debate on this bill. One was, the lien provision, which we have put back in with the amendment, so that the state will have a lien on the right-of-way for the track. And the other was that given (Guilford) Transportation's record, we had some concern about their record of abandoning rail lines very quickly after acquiring them. So that's the reason under number four on page 12 for the statement relative to the abandonment of the branch line and saying that the state may exercise its rights of condemnation under RSA 228. We felt that this

would protect the state in terms of supporting the completion of the line, but also providing protection to the state.

SENATOR HUMPHREY: Senator Shaheen, this amendment requires that the lien provision of existing statute apply in this case, is that correct?

SENATOR SHAHEEN: That is correct. As you recall the bill as it was passed the first, deleted that as it applied to this bill.

SENATOR HUMPHREY: It waived it in this case?

SENATOR SHAHEEN: Right.

SENATOR HUMPHREY: Well I congratulate the Capital Budget committee for improving the bill and safeguarding the interest of the taxpayers, nonetheless, I want to state my opposition to the bill even as amended, if it's amended, and I assume it will be. It's a good amendment. I just think that we ought to stand up to (Guilford) Transportation. They have done a job on this state, and the people of this state, and the people of the railroad in so many different ways, over so many years, I think that it's time to draw a line in the sand and to say to (Guilford) Transportation: fix your own darn railroad, and if you don't fix it, because it's important to our state, we're going to move by condemnation to take it from you, and sell it to somebody who will maintain it. But we are not going to give you \$800,000 to fix your railroad. Your going to play by our rules, we're not going to play by your rules. I think that we ought to take that kind of stance in light of this sorry record of this transportation company and not give them the \$800,000, but tell them if they don't fix it that we will take it and give it to somebody who will fix it. Now that's the businesslike way to do it, avoiding what I see as an outrageous subsidy to a privately owned company which is indeed owned by one of the wealthiest men in America, according to the Boston Globe.

SENATOR ST. JEAN: Senator Humphrey, alluded to (Guilford) Transportation's record. Let me give you some of the things that (Guilford) has been involved with. In 1988 the U.S. Justice Department sued GTI for nonpayment of \$814,000 in fines, and 837 violations. That was from the Boston Globe. In fact, safety is perhaps the major problem at GTI. In 88 the federal Railroad Administration conducted a safety investigation themselves, and this is what they said; When it's work force walked off the job, GTI disregarded a sound safety practice and simple common sense, attempted to maintain service by recruiting replacement engineers from any available source, rather than restoring service gradually as experienced personnel required. It goes on. On GTI the instances of noncompliance with safety standards on equipment, were neither minor, nor iso-



lated. We have never before encountered a fleet with such a high percentage of unit in noncompliance, or so many problems on each unit. Federal inspectors found noncompliance conditions on nearly all locomotives. The problems cited had been repeatedly noted on the company's daily inspection reports. The company simply failed to repair them, or repaired those which it felt absolutely necessary to continue operations, even after federal inspectors identified locomotives with noncompliance conditions. This goes on and on. I could keep going, but I don't want to bore this Senate. I submit to you, is this the kind of company that we want to bond \$800,000 for, with 837 violations? I say that we are hard-pressed to come up with dollars for children and senior citizens, I'm not so sure that we should be subsidizing this group of individuals that don't respect public property, individuals that work for them, not only in New Hampshire, but across this United States. I think this ought to be voted down, and we ought to start from scratch and perhaps we will attract some good people into this state, instead of the individuals that are currently running GTI.

SENATOR HEATH: Senator St. Jean, what was the amount that they failed to pay the United States of America?

SENATOR ST. JEAN: Eight-hundred and fourteen thousand dollars. Perhaps Senator, if they had paid them the \$814,000 they wouldn't have their hat in hand coming to the state for the bonding of \$800,000.

SENATOR HEATH: Well, Senator, I think that we are thinking along similar lines. Senator, I wanted to ask you if you thought that maybe we should instead, give the United States of America, the \$800,000 and relieve them of that burden so poor Tim Mellon, would be perhaps a little more flush with his money and we could in fact, help ourselves as citizens to balance the debt at the same time. Do you think that would be at least a better solution?

SENATOR ST. JEAN: I think it would, Senator. But I think it sends a message throughout New Hampshire, when this chamber bonds for \$800,000 with a pitiful record, and it's not just Tim Mellon, I've never met the man, nor do I care to. But his reputation, and what he's putting this state through and other states that he wrecks havoc in, I don't think that we ought to be part of that, Senator.

PRESIDENT DUPONT: I take my seat on the floor and stand to speak, because obviously, the subject that we are debating affects my district and the reason that I am here is to represent the district. Again, I would just like to refocus the discussion away from Tim Mellon, and Guilford Transportation. The last time that I was on this

floor, I indicated to the members of this body, that I recognize their concern that we go to (Guilford) Transportation and see if they would yield to our request for a lien, we have been unsuccessful to date. I'm not going to rise today and say that I am going to come back to this body at some point in time and say that it was an unsuccessful attempt, but given the fact that we've made little progress, and given the fact that they've been reluctant to allow us to put the lien on that, what we want. I certainly am sympathetic to some of the concerns that have been raised here today, and in fact, it may be that this money never gets spent and that certainly may seem like a punishment to (Guilford) Transportation, but ultimately, we are punishing ourselves, because we have talked about economic development and industry and infrastructure, and it's unfortunate that (Guilford) Transportation and I share the concerns that Senator St. Jean raises. But ultimately, the fact of the matter is, is that (Guilford) Transportation does own this line, there are jobs in New Hampshire that depend on this line, and we can't change the ownership, but we can address some of the concerns that Senator St. Jean has indicated about safety problems, by helping to invest in the line, that at this moment is unsafe, has problems, has had a major number of derailments, and is in fact, relied on by industry, which in fact, provides employment and wages that are spent in New Hampshire and not to the benefit of Tim Mellon. So I stand asking my colleagues to support the committee, I think that they have done their job, they've discussed this with me and I've indicated my full support for it. Ultimately, it is my hope that we will enjoy the benefits of those dollars that we invest, not in Tim Mellon, but in our own future.

SENATOR OLESON: This bill came out of the Transportation committee some time ago. And I think any objections that are pertinent to the bill have been addressed several ways. As I said before, and I don't like to repeat myself, when we talked, and talked, and talked about economic development in the state of New Hampshire before our election. But after the election when they find out economic development might cost a little bit, opposition seems to arise. This hasn't had anything to do with my district, I took a ride on the railroad about a month ago, no doubt it will be the first and last time I ever will go that road. But nevertheless, I saw the necessity where we should upgrade the ten mile piece of road. Rochester and Somersworth, there has been a considerable amount of money for industrial parks in the hopes that this railroad might be upgraded, and also, maybe to attract more industry in the state of New Hampshire. When we spoke about industry development, when we talk about industrial development, we have to have something up here to offer



to the people, who are willing to come up and spend their dollars, and have the initiative to put factories and whatever in our state. It isn't so much as speeding up, you see there are some thirty miles above which is in good condition, but there is that 10-mile stretch. And it isn't so much as speeding up which the reconditioned road no doubt will do. At the same time it has a certain history of derailments, and I don't think any company would want to locate in these industrial parks if they knew that what they shipped out by rail might not reach it's destination, but might dump in the ditch and down the river somewhere. I want the other Senator's to realize this, you do not have to raise the settlement as been mentioned. What we're going to do, is we're going to negotiate with the people who own this line and they will know that this is the top dollar that we've got to negotiate with. If they can't accept it, everything collapsed anyway. But this is apt to come to negotiating. It might be accepted, but if there is any differential made, it will be on the other part and not on the part of the state of New Hampshire. I urge the Senators to consider and pass this bill as amended. Thank you. I think I would ask the questions over, and over, and over again. I will not submit to questions.

SENATOR ST. JEAN: I have a question for Senator Oleson.

SENATOR OLESON: I said I would not submit to questioning. We have had lengthy hearings. I think every question known to man has been asked and answered to mostly satisfaction to everyone that I know of.

SENATOR ST. JEAN: Senator Nelson, we have heard the lien provision and why GTI did not want the lien provision. Would you believe that one of the reasons they may not want the lien provision is, the whole question of fiberoptic rights. The rights for AT & T to run cable along train lines. Currently they are paid about, as I understand it, \$430,000 each year from AT & T for allowing fiberoptic lines from Concord to Lebanon. Would that make sense for them not wanting a lien provision, Senator, if this would affect the payments of this magnitude on a regular basis, which they may want to do on the lines, on the lines that we expect that ten-mile stretch, that we expect to bond \$800,000?

SENATOR NELSON: I would like to defer that question to Senator Dupont.

SENATOR DUPONT: Yes, I will take the question because I am familiar with the running of fiberoptic cables along rail lines, Senator. And it's incidental to the operation of the railroad line. There are active railroad lines. The right-of-ways are large enough so that they

usually trench to the side and conduit under bridges so in fact they do do that, and it wouldn't effect the operation. It would not effect the lien. The lien in itself is behind any mortgage or any other provision that is put on the line.

SENATOR ST. JEAN: Senator, wouldn't you say that that is a nice side business to be able to charge \$435,000 in order to run AT & T cable along your train line. I mean I'd like to get into that kind of business.

SENATOR DUPONT: Senator, I agree with you 100 percent and maybe when B & M went bankrupt the state should have aquired all the lines in the state at that point and time and we would be in the fiberoptic business, but we're not, we are in the business of providing services to our citizens in access to transportation to our citizens and that's why we're debating this issue this afternoon.

Senator Russman moved the question.

SENATOR HUMPHREY: Senator St. Jean, the value of the right-of-way underscores, does it not, the importance of the lien which is against the property, including the right-of-way? That a railroad, any railroad can derive substantial income on a right-of-way versus the railroad itself. It only underscores the value of the lien against the property as opposed to simple ownership of the rails.

SENATOR ST. JEAN: I think when we are talking about this kind of money involved in the right-of-way, I think that you are absolutely right, Senator. We are talking about real money and more money in the future. And I think that we ought to take that into consideration, certainly when we are bonding \$800,000 for GTI.

SENATOR W. KING: Senator Humphrey, you had suggested earlier that perhaps we should just condemn it and take the line. Do you have any idea of what it would cost us to condemn the line, then upgrade it, and then re-sell it?

SENATOR HUMPHREY: The answer is no, but I haven't suggested that we upgrade it. North Coast has expressed an interest in buying the line. I'm suggesting that if it were condemned that it be sold to North Coast or some other willing buyer who would in turn improve it.

SENATOR W. KING: Well, Senator Humphrey, it's my feeling that it would be a lot more expensive to do that, than it would be to invest the amount of money that we are talking about here. Aside from that, the next question that arises is, do you think that it is a legitimate use of eminent domain proceedings to take from one company and then for the state to use that asset and re-sell it to another?



SENATOR HUMPHREY: I think clearly those powers should be used with great restraint, but the case has been made. I don't necessarily accept it, but the case has been made by a number of parties that this improvement of this line is vital to the economic well-being of that region. If that is so, then I think that the state is justified in this circumstance, assuming that (Guilford) will not fix it, to take it from (Guilford) and sell it to someone who will maintain it.

SENATOR HEATH: Senator W. King, you raised a good point and I wanted to get a clarification on it. You asked if you thought it was right to take an asset from one company and turn it over to another company, and I'd ask you, if you believe that some of the business profits tax from other companies around the state are going to be taken and applied to the purchase and turned over to the (Guilford) Transportation?

SENATOR W. KING: No.

SENATOR HEATH: Oh, O.K. I'm glad to hear that.

SENATOR HEATH: Senator Dupont, south of this ten-mile stretch that's being restored or repaired, what, who owns the line south of that?

PRESIDENT DUPONT: It would be the B & M (Guilford) Transportation.

SENATOR HEATH: Quickly, Boston is really the term in this (terminus) that is important to any industry in New Hampshire to get to, but it isn't to get to southern New Hampshire as to get to the Boston connections.

PRESIDENT DUPONT: I'm not (TAPE INAUDIBLE)

SENATOR HEATH: Aside from Boston yard, I guess I'm speaking in general of Massachusetts. That Massachusetts, that is critical because the question that I really want to pose to you, so we restore this piece of line, are we not looking down into Massachusetts where they can let those lines deteriorate, and TAPE INAUDIBLE into either appropriating money for the restoration of those lines or seeing the same bottleneck occur when those lines deteriorate?

PRESIDENT DUPONT: No, Senator, we are not, because as we have discussed the last time that we debated this issue, the reason that this line doesn't, hasn't had investment from (Guilford), is the level of traffic on it. That level of traffic is low, but important to the industries that use it, and there is sufficient traffic, and they have kept that line from Portland to Boston up. And again, I say to you, being familiar with shipping products by rail, that they don't neces-

sarily go to Boston. A lot of the products that come from the Middle Eastern part of this country, come to a junction in New York, rather than the Boston yards.

SENATOR HEATH: But out-of-state, nonetheless? Out of our control?

PRESIDENT DUPONT: Certainly, Senator. And our roads run to Massachussetts too, but we still improve our roads to the borders in the hope that they will live up to their commitments to keep the network, road network improved also.

PRESIDENT DUPONT: Senator Humphrey, you indicated that you supported turning the line over to North Coast, acquiring it by eminent domain and to let North Coast fix the line up, but are you in fact familiar with the fact, that the 30 or so, some odd miles North of this piece have been improved with state dollars in participation?

SENATOR HUMPHREY: Yes. And I'm also aware that that expenditure attracted one new business which no longer is in business.

PRESIDENT DUPONT: But it has also attracted a number of other new businesses too, Senator. So I would end with that Mr. President, I don't have any other questions.

Senator Russman moved the question.

Adopted.

### **Amendment to SB 162-A**

Amend the bill by replacing section 2 with the following:

2 Appropriation. The sum of \$800,000 is hereby appropriated for the fiscal year ending June 30, 1991, to the department of transportation for the rebuilding, modernization, and maintenance of the Conway branch line. This appropriation is in addition to any other funds appropriated to the department of transportation. This appropriation shall be subject to the provisions of RSA 228:66 and shall be nonlapsing.

Amend the bill by replacing section 4 with the following:

4 Abandonment of the Conway Branch Line. If the Conway Branch Line is abandoned, then the state may exercise its rights of condemnation under RSA 228:59.

Senator Heath requested a Roll Call.

Senator Heath withdrew the motion of Roll Call.

Amendment Adopted.

Ordered To Third Reading.



The following Senators are in opposition to SB 162-A: Colantuono, Humphrey, Podles, and St. Jean.

Senator Humphrey is in favor of the amendment to SB 162-A.

Senator Humphrey is in opposition to third reading on SB 162-A.

**SB 7-FN-A**, an act relative to an industrial research center at the University Of New Hampshire. Economic Development committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: As you will recall SB 7 is the bill that establishes an industrial research center at the University of New Hampshire. Senator Colantuono, brought up some very valid and appropriate points when we last took action on this bill before it was sent down to Finance. The Finance committee has worked on those points and we then consulted with Senator Colantuono, unfortunately, had been placed in the calendar. So the first thing that I need to ask you to do, is to vote no on the amendment that is on the calendar, and then I will present a floor amendment that will rectify the problem that Senator Colantuono had pointed out.

Recess.

Out of recess.

Senator Dupont in the Chair.

### **Amendment to SB 7-FN-A**

Amend the bill by replacing all after section 1 with the following:  
2 Appropriations.

I. For the purposes of this act, \$500,000 is appropriated to the oversight committee established in RSA 187-A:32 for the fiscal year ending June 30, 1992, from the New Hampshire economic development fund. Of the sum appropriated, \$200,000 shall be considered start-up costs that shall not be subject to the dollar for dollar matching requirement under RSA 187-A:33.

II. For the fiscal year ending June 30, 1993, \$500,000 shall be appropriated to the oversight committee established in RSA 187-A:32 from the New Hampshire economic development fund which shall be matched dollar for dollar from the operations of the center.

III. The department of resources and economic development is authorized to receive and expend funds, donations, grants or other moneys, gifts or bequests for the purposes of this act.

3 Contingency. Section 2 of this act shall take effect July 1, 1991, if HB 50-FN-A of the 1991 legislative session becomes law. If HB 50-FN-A does not become law, section 2 of this act shall not take effect.

4 Effective Date.

I. Section 2 of this act shall take effect as provided in section 3 of this act.

II. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

The bill creates an industrial research center at the university of New Hampshire at Durham. The purpose of the center is to provide applied and basic research capability and technological transfer to support the New Hampshire industrial and business community. The funding for the center shall be derived from state appropriations which will be matched, dollar for dollar, from the net income of any of the center's operations.

The bill makes an appropriation from the New Hampshire economic development fund for the start up costs of establishing the center.

Committee Amendment Fails.

SENATOR W. KING: You have before you I think, the Finance committee amendment, #2300L. To begin with, I'll make it quick. We dealt with the issues that Senator Colantuono had brought up in terms of making sure that those dollars were going to go to the industrial research center and corrected the language so that it was absolutely certain that that would be the case, with a lot of great help from Senator Colantuono. And we urge your passage of the amendment and then the bill.

SENATOR NELSON: Senator King, there were other concerns of the Senate floor about the lack of specifics in the bill. Were those addressed at all?

SENATOR W. KING: Senator Nelson, we did discuss that at great length. It was a matter of discussion in the committee. Let me say as I pointed out to you on the floor the last time. We in many cases deal with many organizations that deal with the business community and we do not ask them to submit to us every little thing that they do in order to make the determinations about to whom those grants go. We based those grants on track records. This industrial research center will establish a track record.

Senator Hough has moved the question.

Adopted.

Senator W. King offered a floor amendment.



**Floor Amendment to SB 7-FN-A**

Amend paragraphs I and II of section 2 of the bill by replacing them with the following:

I. For the purposes of this act and notwithstanding HB 50-FN-A of the 1991 legislative session, \$500,000 is appropriated to the oversight committee established in RSA 187-A:32 for the fiscal year ending June 30, 1992, from the New Hampshire economic development fund. Of the sum appropriated, \$200,000 shall be considered start-up costs that shall not be subject to the dollar for dollar matching requirement under RSA 187-A:33.

II. For the fiscal year ending June 30, 1993, and notwithstanding HB 50-FN-A of the 1991 legislative session, \$500,000 shall be appropriated to the oversight committee established in RSA 187-A:32 from the New Hampshire economic development fund which shall be matched dollar for dollar from the operations of the center.

Floor Amendment Adopted.

Ordered To Third Reading.

**SB 12-FN-A**, an act relative to school building aid and making an appropriation therefor. Finance committee. Inexpedient To Legislate. Senator Hough for the committee.

SENATOR HOUGH: You don't need this bill, vote to kill it.

Committee Report Adopted.

**SB 13**, an act relative to transferring funds between and among line items in the postsecondary technical education department. Finance committee. Ought To Pass With Amendment. Senator Hough for the committee.

SENATOR HOUGH: The amendment which you should pass is a committee amendment that protects the police standards and training camp, council in the postsecondary technical education department. The other parts of the bill allow for management by objective with fiscal committee reporting as opposed to the present fiscal committee approval. Vote for the amendment and vote for the bill.

**Amendment to SB 13**

Amend the bill by replacing after the enacting clause with the following:

1 Transfer of Funds Allowed. Amend RSA 188-F:14-b, VI to read as follows:

VI. Upon approval of the board of governors as provided by RSA 188-F:14, transfer funds between and among line items within the department [which have the same] **regardless of funding source or funding mix, except for the police standards and training council**

**training fund or any other funds granted to the police standards and training council, which shall not be co-mingled with any other funds.** By October 1 and quarterly thereafter, the department shall submit a report to the fiscal committee detailing all transfers made under this paragraph during the prior quarter and the reasons for them.

2 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill allows the transfer of funds in the department of postsecondary technical education between and among line items that do not have the same funding source or mix except for the police standards and training council funds which shall not be co-mingled with any other funds.

This bill is a request of the department of postsecondary technical education.

Amendment Adopted.

Ordered To Third Reading.

**SB 18-FN-A**, an act relative to the conservation corps program and making an appropriation therefor. Wildlife and Recreation committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: The amendment to this bill merely says: that the appropriation in it shall be a charged against the service parks income account revenues received by the Division of Parks and Recreation so there will be no general funds needed to fund the conservation corps.

### Amendment to SB 18-FN-A

Amend the bill by replacing section 1 with the following:

1 Appropriation. The sum of \$100,000 is hereby appropriated to the department of resources and economic development, division of parks and recreation, for the biennium ending June 30, 1993, for the purpose of funding the conservation corps established pursuant to RSA 216-A:7. The division of parks and recreation is also hereby authorized to receive and expend donations, contributions, and monetary awards, to be used for the purpose of matching federal funds. This appropriation is pursuant to the National and Community Service Act of 1990, Title I, Subtitle C, which makes funds available to "expand a full-time or summer youth service/conservation corps program" on a 75 percent federal to 25 percent state ratio. If federal funds for this purpose are not available in the amount of \$300,000,



the state appropriation shall be reduced in proportion to the amount the federal funds have been decreased. This appropriation shall be in addition to any other sums appropriated to the department of resources and economic development for the biennium. This appropriation shall be a charge against the service parks income account revenues received by the division of parks and recreation.

### AMENDED ANALYSIS

This bill makes an appropriation to the department of resources and economic development for the conservation corps.

Amendment Adopted.

Ordered To Third Reading.

**SB 28-FN-A**, an act relative to promoting New Hampshire businesses and products internationally. Economic Development committee. Ought To Pass. Senator W. King for the committee.

**SENATOR W. KING:** This is a great bill, and we didn't do anything to it.

Adopted.

Ordered To Third Reading.

**SB 33-FN**, an act relative to establishing a nonlapsing account for the New Hampshire technical institute and vocational technical colleges and creating the position of director of financial management. Education committee. Ought To Pass. Senator Hough for the committee.

**SENATOR HOUGH:** Vote in favor of this bill, it puts in the RSA's what is presently done in session. It's a good bill.

Adopted.

Ordered To Third Reading.

**SB 39-FN**, an act relative to reopening liquor stores. Finance committee. Ought To Pass. Senator W. King for the committee.

**SENATOR W. KING:** SB 39 is unchanged from when it passed out of the Senate, over to Senate Finance, and we'd urge you to pass it please.

**SENATOR COLANTUONO:** Senator W. King, the two stores that this calls to be reopened within 60 days of its passage, where is the money coming from to reopen the stores? In this biennium?

**SENATOR W. KING:** From the budget in our state liquor.

SENATOR COLANTUONO: If we just had to pass the supplemental budget to survive through June 30 because everyone was out of money, I ask again, where is the money going to come from?

SENATOR W. KING: Senator Colantuono, the state liquor commission wasn't out of money.

SENATOR COLANTUONO: Alright.

Adopted.

Ordered To Third Reading.

**SB 62-FN**, an act relative to licensure of athletic trainers. Executive Departments committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: I was hoping that Senator Currier would be here, because this bill was his baby. Is Senator Currier out there? The committee amendment which is found on page 13 is fairly basic, but I want to make it understood that what it says: is that people who are otherwise engaged in athletic activities, will not be considered to be . . . I will read it. It says: "other persons engaged in athletic activities, nothing in this act shall be construed to prevent any unlicensed person employed in athletic activities from pursuing its vocation as long as he does not represent himself as a licensed athletic trainer and as long as he does not treat athletic injuries." What it essentially says it takes care of the concerns that were voiced by this body, about other people who were working with athletic teams who might be considered to be athletic trainers and might come under some penalty of law as a result of that.

#### **Amendment to SB 62-FN**

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

5 Other Persons Engaged in Athletic Activities. Nothing in this act shall be construed to prevent any unlicensed person employed in athletic activities from pursuing his vocation as long as he does not represent himself to be a licensed athletic trainer and as long as he does not treat any athletic injuries.

Amendment Adopted.

Ordered To Third Reading.

**SB 69-FN**, an act relative to certification of professional counselors.

Executive Departments committee. Ought To Pass. Senator W. King for the committee.



SENATOR W. KING: There is no change to this bill on certification of professional counselors and we urge its passage.

Adopted.

Ordered To Third Reading.

**SB 71-FN-A**, an act relative to superior court justices and making an appropriation therefor. Internal Affairs committee. Ought To Pass With Amendment. Senator Hough for the committee.

SENATOR HOUGH: The amendment takes the appropriation out of this bill. The bill as it stands, now raises the number of Superior Court Justices' to 28, that's an additional four. The opening of the Nashua Court House and the backlog in cases, would clearly indicate that the proper authorized strength for the Superior Court should in fact be 28. We agree with the authorization; however, when we get to the budget we will be very lucky if we can set the proper appropriation level to drive the present 24 justices if things change between now and the end of our work in June, and we can add one or more justices in balance with all of the other demands in the state of New Hampshire, we will take that under advisement. But the bill as you have it here, only gives the position authorization and not the appropriation.

#### **Amendment to SB 71-FN-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to superior court justices.

Amend the bill by deleting section 2 and renumbering section 3 to read as 2.

#### **AMENDED ANALYSIS**

This bill increases the number of superior court justices from 24 to 28.

Amendment Adopted.

Ordered To Third Reading.

**SB 72-FN-A**, an act relative to certain vaccines for children and making an appropriation therefor. Public Institutions, Health and Human Services committee. Ought To Pass With Amendment. Senator Hough for the committee.

SENATOR HOUGH: The amendment does not make an appropriation. This bill in its present form is a result of a tremendous amount of work by Senator Hollingworth, and members of the Department

of Public Health, as well as the members, a number of people in the third party payers mainly the HMO's, and BC/BS. What this is in effect doing, is establishing a fund into which the third party payers will place their resources to allow for vaccinations to be, the vaccines for vaccinations to be acquired under the state federal relationship which is significantly lower, and it will save money for the providers, their contribution into the fund will also allow for picking up the uninsured population. It is a very imaginative piece of legislation and it's very exciting because it will allow us to leverage our limited resources with the contributions from the third parties, it's cost effective for them and it allows us to maintain the program covering the uninsured.

SENATOR SHAHEEN: I would just like to commend Senator Hollingworth, and the people who worked with her. I think that this is the creative solution to a problem in the state that we'd all like to be involved in.

#### **Amendment to SB 72-FN-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing and continually appropriating a  
fund for the purchase of vaccines.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Fund Established. Amend RSA 141-C by inserting after section 17 the following new section:

141-C:17-a Vaccine Purchase Fund. There is hereby established a vaccine purchase fund for the purchase of antitoxins, serums, vaccines and immunizing agents, which are to be provided to the public at no cost except for the actual cost of administering such agents, under RSA 141-C:17. Any funds provided to the division for this purpose and deposited to the funds shall not be used for any other purpose. Moneys in the fund shall be continually appropriated to the director, division of public health services.

2 New Subparagraph; Special Fund. Amend RSA 6:12, I by inserting after subparagraph (mm) the following new subparagraph:

(nn) Moneys received by the director, division of public health services for the purchase of vaccines, which shall be credited to the vaccine purchase fund established in RSA 141-C:17-a.



3 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill establishes a fund to be used by the director of public health services for the purchase of antitoxins, serums, vaccines and immunizing agents, which are to be provided to the public at virtually no cost. The fund is continually appropriated to the director, division of public health services.

Amendment Adopted.

Ordered To Third Reading.

**SB 90-FN**, an act relative to the Salmon Falls Road in the cities of Somersworth and Rochester. Finance committee. Ought To Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: Senate Finance is sending back SB 90, the same way that it came to us. It only directs the Department of Transportation and the City Officials to meet and submit a report relative to an evaluation before December 2, 1991. We ask your consideration.

Adopted.

Ordered To Third Reading.

**SB 120-FN-A**, an act establishing a sunset committee and restoring the sunset review process and making an appropriation therefor. Finance committee. Ought To Pass. Senator W. King for the committee.

SENATOR W. KING: No change in the bill, let's pass it on over to the House.

Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

Senator Russman in the Chair.

**SB 126-FN**, an act relative to groundwater classifications. Finance committee. Ought To Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: SB 126 came to us in this fashion and we are sending it back to you. It's Senator Russman's bill. I commend him on giving us a good piece of legislation and I ask your consideration to pass it.

Adopted.

Ordered To Third Reading.

**SB 127-FN**, an act relative to removing vegetation obstructing advertising devices and planting lilac bushes. Finance committee. Ought To Pass With Amendment. Senator Blaisdell for the committee.

**SENATOR BLAISDELL:** This bill came to us in Senate Finance, we're sending it back with a slight amendment. I know that Senator McLane was very vocal on the Senate floor, she wanted to talk about page one, line five, which says: "remove vegetation, vegetative growth", and we said that some words should be added to this. Let me start over again. There is also some ambiguous language in SB 127 as it was passed. On page one, line five, after "removed vegetative growth", should be added the words "from the adjacent land owned or leased to the sign owner and from the public right-of-way". I believe this takes away the ambiguity of the statement, and we ask you to pass the bill in it's form.

**SENATOR MCLANE:** Senator Blaisdell, would you mean, would you believe, that you have made a bad bill worse?

**SENATOR BLAISDELL:** Well Senator, you told me that in the last session, and I guess I maybe have to believe you in this session. Thank you.

**SENATOR HUMPHREY:** Mr. President. Maybe I already . . . Did I already address this on the floor or in committee?

**SENATOR NELSON:** Both, but we want to hear it again.

**SENATOR HUMPHREY:** Well, in that case, in that case, I'll be briefer that usual. Mr. President, when we spend taxpayers money to buy up a swath of land through the countryside to create a more expeditious and scenic means of service travel. We don't do it to generate benefits to abutting landowners. That such benefits arise is simply incidental and secondary, but we don't create sign offers, we don't spend these monies to build highways to create sign opportunities. People choose who abut these rights-of-ways, choose to erect signs, fine, that's their right. But they shouldn't have a right in my view, to go back into public land and to cut vegetation which over time grows up to obscure those signs. There is no property right in that situation. And I think the Senate would be mistaken to pass this bill.

#### **Amendment to SB 127-FN**

Amend RSA 236:74, V as inserted by section 1 of the bill by replacing it with the following:



V. Removal of Vegetation. With respect to advertising devices located in federal highway or turnpike adjacent areas, owners of advertising devices may remove vegetative growth from the adjacent land owned or leased to the sign owner and from the public right-of-way, to allow a 5-second unobstructed view of the advertising device to persons driving vehicles at the posted speed limit, provided that the owner of the advertising device is issued a vegetation removal permit.

### AMENDED ANALYSIS

This bill permits owners of advertising devices located in federal highway or turnpike adjacent areas to remove certain vegetation obstructing views of their advertising devices provided they purchase and plant lilacs or similar plants to replace removed vegetation and are issued a permit.

Amendment Adopted.

Ordered To Third Reading.

**SB 128-FN-A**, an act relative to the development of an electronic benefit transfer system and making an appropriation therefor. Finance committee. Ought To Pass. Senator Hough for the committee.

SENATOR HOUGH: This bill as it came to us had \$1 in it and it is returned to you with \$1 in it. Administratively, the state of the art in human services, has reached the point where they now can address electronic benefit transfer as opposed to the paper method in which they are presently operating. In the, as we address the budget for Human Services, and the Administrative costs for providing the existing levels of benefits, we will address them. The agency implementing this new system in tandem with the present method and at the end of the biennium, hopefully, it will save money for the agency. It is a type of system that has been tested in other areas and it is very cost effective, and we feel that they have now reached the point where they should go forward with it.

Adopted.

Ordered To Third Reading.

**SB 141-FN**, an act to extend medical benefits to group II members on disability retirement who became group II members after June 30, 1988.

Finance committee. Interim Study. Senator Blaisdell for the committee.

SENATOR BLAISDELL: If this was any other year but this one, certainly, I wouldn't be standing on the floor and sending this bill to interim study. But did you know that we just passed HB 51, which

included a eight-month study of the retirement system. Senate Finance felt that we should wait until that eight-month study is brought back into the legislature, so we are going to send this bill into interim study, and we hope that you will agree with us.

SB 141-FN, is sent to Interim Study.

Senator Pressly (Rule #42).

**SB 144-FN-A**, an act relative to the Women's War Memorial and making an appropriation therefor. Finance committee. Ought To Pass With Amendment. Senator Blaisdell for the committee.

**SENATOR BLAISDELL:** Instead of taking a page out of Senator Humphrey's book, we changed this, took the appropriation out of here. We let the Veteran's Council be able to accept private donations to be able to put this war memorial in place. And Senate Finance felt that that was the best resolution.

#### **Amendment to SB 144-FN-A**

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose; Intent. In November 1986, President Reagan signed a law authorizing the construction of a memorial in the nation's capitol to recognize the contributions of women who serve or have served in the armed forces. The Memorial Gate area of the Arlington National Cemetery has been selected as the site for the memorial. The Women in Military Service for America Memorial Foundation, Inc. is the nonprofit organization charged by Congress with the responsibility for funding and moving the project forward. The legislature finds and declares that the people of the state of New Hampshire recognize the contributions of women from this state and all states who serve or have served in the armed forces and are pleased to contribute to the funding for the Foundation. The legislature encourages public sector and private sector donations to the veterans council for transmittal to the Foundation for the funding of the memorial.

2 Veterans Council Authorized to Accept Donations. The veterans council is authorized to accept public sector and private sector grants, gifts and donations of any kind for the purpose of transmitting such funds to the Women in Military Service for America Memorial Foundation, Inc. for construction of the Women's War Memorial.

3 Appropriation for the Women in Military Service for America Memorial Foundation, Inc. The sum of \$1 is hereby appropriated for the fiscal year ending June 30, 1992, to the Department of Military and Veterans' Affairs for the purpose of providing a grant to the



Women in Military Service for America Memorial Foundation, Inc. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect July 1, 1992.

### AMENDED ANALYSIS

This bill appropriates \$1 to the Department of Military and Veterans Affairs to provide a grant to the Women in Military Service for America Memorial Foundation, Inc. The bill also authorizes the veterans council to accept public and private donations for transmittal to the Foundation. The Foundation recognizes the contributions of women who serve or have served in the armed forces.

Amendment Adopted.

Ordered To Third Reading.

**SB 148-FN**, an act providing a 5 percent cost of living adjustment for group I retirement system members and providing a 10 percent cost of living adjustment for teachers retired prior to July 1, 1957. Finance committee. Interim Study. Senator Blaisdell for the committee.

**SENATOR BLAISDELL:** The same thing as I told you before in the other previous bill on retirement. This will be studied in the eight-month study coming out of this legislature. There is money there of course for the teachers to get their Colas, but we felt that we should wait until the study came out and set the perimeters of what we should be doing with the retirement system, we ask your support of interim study.

**SB 148-FN**, is sent to Interim Study.

Senator Heath (Rule #42).

**SB 156-FN-A**, an act establishing a committee to study the SAU structure within the state of New Hampshire and making an appropriation therefor. Finance committee. Ought To Pass With Amendment. Senator Blaisdell for the committee.

**SENATOR BLAISDELL:** When this bill came to us in Finance, it had a \$25,000 price tag to study the SAU structure in the state of New Hampshire. Senate Finance amended it with the consent of Senator Disnard, he can speak to it, we put a dollar in it, we are going to try to address something like this in the budget to see if we can't find some consultant money in another place, but we just did not have the \$25,000 to put into this study at this time. We ask your consideration to pass it, as we amended it.

**Amendment to SB 156-FN-A**

Amend the bill by replacing section 5 with the following:

5 Appropriation. A sum not to exceed \$1 for the fiscal year ending June 30, 1992, is hereby appropriated to the legislative budget assistant for the purposes of this act. The governor is authorized to draw his warrant for said sum out of any money in the treasury not otherwise appropriated.

Amendment Adopted.

Ordered To Third Reading.

**SB 170-FN-A**, an act to study the revenue structure in New Hampshire and making an appropriation therefor. Finance committee. Ought To Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: This bill originally, the way it came was drafted had \$50,000 in it, I believe, to study the revenue structure in the state of New Hampshire. I think Senator McLane, should be complimented on putting this forth again, although this is kind of the toughest time, maybe it's the right time, but \$50,000 or even \$1, I guess, we're in real trouble, but we did put \$1 in the bill, hoping that maybe in the budget structure, that maybe we would be able to find some extra consultant money or someday to be able to fund this structure and we ask your consideration.

Adopted.

Ordered To Third Reading.

Senator Roberge in opposition to SB 170-FN-A.

Recess.

Out of recess.

Senator Dupont in the chair.

**SB 173-FN-A**, an act relative to senior "meals on wheels" and senior transportation and making an appropriation therefor. Finance committee. Inexpedient To Legislate. Senator W. King for the committee.

SENATOR W. KING: I want to . . . Would you prefer to take it Senator Hough, or . . . I want to say that there is not a one among us that is not terribly concerned about making sure that the "Meals on Wheels" program is protected. And I want to commend Senator Poldes for bringing this bill forward so that each of us had the opportunity to go on record as being concerned about that and presenting that to the Finance committee. That indeed will make it one of the



highest priorities of the Finance committee. So we recommend that this issue will be taken care of in the Budget, and that we will make sure that Senator Podles wishes are fulfilled.

SENATOR BASS: Mr. President, I never thought these books would come in handy, but I happened to be flipping through it this afternoon, and I looked on page 93, which is the page upon which the authorizing committee recommends ought to pass, Senator Oleson for the committee. At that time I got up and said "what is the point of passing this bill on with this huge appropriation on to Senate Finance committee, when we all know full well, that they were going to, the bill is going to be killed." Well what do you know, three weeks later, we got the same thing back, Inexpedient, and we're going to hear the same people say "oh, we knew we could do it, but now we can't." I favor "Meals On Wheels", but I go back to the same statement that I made three weeks ago today. We pass a bill, we pass a bill on an authorization to make ourselves feel good and to sort of send a good word to Senate Finance, and then when the Senate Finance committee kills a bill, we just sweep it through, so that we all look good. If my colleagues wish to remain consistent, I would urge them to vote against this motion, and substitute the motion of ought to pass, and when that happens, the vote really should be 18 to 4. If you believe the debate you heard three weeks ago.

SENATOR HOUGH: I heard what Senator Bass said, and I also heard what he said in the date that he refers to. And I don't disagree with him. And I think that it was unfortunate that he found himself in a position of making an honest assessment at that time, but let me give you some history as far as not only Meals on Wheels that concern the budgetary process in the state of New Hampshire. I refer back to the spring of 1983 when at that time we were in as dire a condition as we presently face. And that was the first attempt to pass a three-line budget that was a budget of management. And I remember clearly sitting in the Finance committee with Senator Blaisdell and other members and the numbers of people from all of the state came in and were concerned about the Meals on Wheels. Now what we passed in 1983 was clearly a three-line budget. But when we passed that budget, there was specific language in it that there would be a number of programs, and we used the terms in the law, mandate. And that is not to be confused with what we now term mandate as regards to the constitutional question of mandating programs back to cities and towns, but it was the proper word of a mandate of an agency. And Meals on Wheels at that time was maintained at the present level, proper level, and there was backup documentation in the PAU's, and there were sections of the appropriation act that clearly carried Meals on Wheels forward. The language was

such, and I will quote “the funds appropriated to the agency by the section of this act shall be deemed to be sufficient to enable the agency to meet the priorities provided for therein”, and then it went on to indicate that “additions of such funds shall be deemed sufficient for the agency to comply with the mandated program, notwithstanding any other provision of law” and that there would be a report to the fiscal committee on a quarterly basis as to how the programs that we specifically identified would be handled, was going, we knew on a quarterly basis that the services were being maintained at the appropriation line was being committed to those resources, similarly as we are all aware that the hour is getting late. In a few minutes Senator Hollingworth will be very concerned with the prenatal care bill. Again, this Senate, and I’ll stake my reputation of 20 years drafting the human service budget, when it comes to prenatal, when it comes to the pari-natal, when it comes to the EMT’s, when it comes to the Meals on Wheels, when it comes to daycare. Those funds, regardless of the circumstances of the state of New Hampshire, are in the human services budget, be it a ten line budget, be it a three line budget, be it a one line budget, in the back sections of the three line or a one line budget will have clear prioritize list that says that the funds for the program will be used and committed by the agency for specific purpose. Senator Bass is correct in the sense that the report on the bill he predicted. You don’t want to start appropriating for the oncoming biennium on a piecemeal basis. When you do that, you’re losing control of the appropriate process contained in the budget act. And clearly this Senate, and this member of the Senate, historically has committed to such programs as Meals on Wheels and programs such as prenatal. They will continue, they will go on forward, or I won’t vote for any budget act, and I’m going to be the one that is drafting that section, so you damn well know that it’s going to be there.

SENATOR HOLLINGWORTH: Senator Hough, are you telling me, so I can clearly understand it, that the Meals on Wheels program, will be fully funded?

SENATOR HOUGH: The Meals on Wheels program will be in the biennial budget act and the appropriation line will be sufficient to maintain the present program. If the data comes forward that there are a number of recipients such that you need to augment that program, then that will be addressed in a positive fashion as well. Historically, the Senate has always taken that position, and I can guarantee you, that any section of Human Services, that has reference to Meals on Wheels, or the prenatal program, and along with a number of other things that I have been closely associated with, will



be brought forth into the new biennium, and I stake not only my reputation, but the reputation of the Senate on that.

SENATOR HOLLINGWORTH: Then the argument that Senator Bass made, that it was, that we should not have passed this, we should not have set policy, is incorrect, because in fact, our vote does set policy that the Senate's policy, that this is our wish, that this program be funded and adequately, to continue the program adequately?

SENATOR HOUGH: I can agree with you that the priority policy of the Senate, of the state of New Hampshire is consistent with pass action to this body, relative to Meals on Wheels as well as prenatal. And I clearly understand the rationale of Senator Bass, in one sense I would agree that he was correct, but I can also agree with you that you are correct, and I don't wear a plaid jacket today.

SENATOR SHAHEEN: I recognize your longtime commitment to Human Services and programs such as these. I guess being a new Senator, I'm a little confused, however, and maybe its that's how the process has historically worked, but I guess my question is: if it is the will of the Senate that Meals on Wheels be funded at the amount originally included in the bill as it was passed, and the Finance is in agreement with funding that program, why we're not voting ought to pass on this bill?

SENATOR HOUGH: Well, as I indicated, you don't want to find yourself in a position of making biennial appropriation for existing programs prior to the enactment of the budget vehicle. Let me go one step further, Senator Shaheen. You know this is an ongoing learning process. We passed and structured a biennial budget two years ago, that clearly committed, excused the existing resources that the state had in the areas of human service and education, at the expense of growth in general government. We were able to do that for the second biennium in a row. Regretably, though, in the last 24 months, we have seen one, we have seen two annual budget adjustment acts that reduce the appropriation line. We also have seen two executive orders that took sweeping, negative cuts against the existing programs. Whether we structure a ten-line budget, or a three-line budget, or a one-line budget, I fully intend to have the sections that are identified as priorities, structured with such language as to hold them harmless for any foreseen recisions. Obviously, it's self-defeating if you try to do that for the whole. But I think that you can clearly identify specific programs that clearly address specific groups in our constituencies that should not be impacted, such as the Meals on Wheels program, and any executive

order should not be able to impact that, and I think that we can develop the language to protect those as they had not been protected in the last 24 months.

SENATOR SHAHEEN: I would certainly agree with you, and I guess that's why my question is: if we want to do that, why are we not voting for this bill?

SENATOR HOUGH: Well, in answer to your question, you're asking two questions. Why are we not appropriating on a specific piece of legislation, for a program that is presently in existence for resources that are presently in the agency? And if you are going to go that route, you are going to find that you are going to lose control of the appropriating process, because you'll have no control over the whole. And I find that as very disturbing because all hell can break loose, in a word. Now that is the answer to why we shouldn't appropriate in a specific piece of legislation. The other side of the question is: how do you protect the program from executive orders, or negative budget adjustment acts? And I tell you that our recent history of going through this, has brought to our attention those sensitive areas, and that we can develop language to hold them harmless. And it's my intention to be committed to do that, and we will do just that thing.

SENATOR SHAHEEN: It seems to me that your comment about losing control of the budget, my question is: whether that applies to the Finance committee, rather than the body of the Senate. Because my thought would be that we would maintain control of the budget process if we supported a bill like this and any other bills that we feel should be priorities, and that what in fact happens is, that we don't lose control of it, that the Finance committee loses control of it.

SENATOR HOUGH: Well, I would beg to differ, Senator Shaheen. The Senate Finance committee only labors on behalf of the body. The body adopts the appropriation act. Whether the committee presents a document, in a fashion that you can support or not, will be your determination at the end of the session. It is the type of work that 24 members can not engage in, initially, because of the time constraints and the major other responsibilities. We're no better or worse than the track record and the confidence that we have been able to demonstrate, not only to this membership, but in coming out of conference where we have to work with the people on the other side of the wall. We can't come out of conference with a resolution of a biennial budget that we know will not be acceptable to this body. Nor will I be part to bringing a document forth out of the Finance committee, that I know will not address the very significant and closely held issues that members of this body want to see, such as the prenatal and the Meals on Wheels. It's not a perfect world. We



are limited in time and resources. We have reputations, we have long-term commitments to these things. If we have failed to accurately bring forth documents that address these human needs, then your confidence in the committees ability to perform is warranted. But I think that the record will show and will demonstrate to you in the next month or so, that we will continue the commitments that we have made over the last many years.

SENATOR DISNARD: Senator Blaisdell, would you believe Senator, that I am on the opinion that you will see as Chairman of Finance, is what your assistant indicated that the proposed bill coming out of Finance budgets will include the Meals on Wheels in it's present state, plus the amount of money that's in here, because I heard your assistant say that, based on current need.

SENATOR BLAISDELL: Sure.

SENATOR OLESON: TAPE INAUDIBLE.

SENATOR ST. JEAN: TAPE INAUDIBLE . . . I urge passage for this pending piece of legislation.

A Roll Call was requested by Senator St. Jean.

Seconded by Senator Roberge.

The following Senators voted Yes: Oleson, W. King, Fraser, Hough, Dupont, Roberge, Blaisdell, Bass, Humphrey, Russman, Delahunty.

The following Senators voted No: Heath, Currier, Disnard, Pressly, Nelson, Colantuono, McLane, Podles, J. King, St. Jean, Shaheen, Hollingworth.

Yeas: 11

Nays: 12.

Senator Colantuono not voting, excused.

Inexpedient To Legislate Motion Fails.

### SUBSTITUTE MOTION

Senator St. Jean moved to substitute ought to pass for inexpedient to legislate.

Ought To Pass Motion Adopted.

Ordered To Third Reading.

Senators Oleson and W. King in favor of SB 173.

**SB 175-FN**, an act relative to foundation aid and making an appropriation therefor. Finance committee. Inexpedient To Legislate. Senator Hough for the committee.

SENATOR HOUGH: The bill as it was drafted refers to the present biennium, foundation aid and the level funding in the prison biennium has not been affected. The bill as drafted is not necessary. Senator Disnard is concerned with maintaining a level of funding at least, but not limited to the present biennial appropriation. The Governor's recommendation for the upcoming biennium includes not only the proceeds from the sweeps, but also a reinfusion of general fund revenue to maintain the existing level of funding. Foundation aid as you know has in the Augenblick formula, has been something that I have been associated with from its inception in 1984. At that time we had \$16,000,000 in general fund, and this tri-state was just initiating. There is no question that you will be passing a biennial budget with foundation aid, appropriation at least at \$47,000,000.

Committee Report Adopted.

**SB 176-FN**, an act relative to ophthalmic dispensing. Finance committee. Ought To Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: The bill came to us, it comes back to you in the same form. Our charge was just to be sure that the board would establish equal fees up to the 125 percent of expenses. There will be no cost to the state, because the Division of Public Health Services indicates the board is funded in the budget. We ask for your support.

Adopted.

Ordered To Third Reading.

**SB 177-FN-A**, an act relative to enhancing prenatal care and making an appropriation therefor. Finance committee. Inexpedient To Legislate. Senator Hough for the committee.

SENATOR HOUGH: Who does defer to Senator Hollingworth.

SENATOR HOLLINGWORTH: I think that after what happened in the last vote, I was considering tabling this for two weeks to see if there was some way that we could come up with some funding for this and, so I guess I would ask that this body would agree to table it to see if we can't find a way in which we can somehow fund this bill.

SENATOR MCLANE: Senator Hough, I thought that prenatal care was in the same situation as Meals on Wheels? That you were going to put it in the budget?

SENATOR HOUGH: You want my answer?

SENATOR MCLANE: Yes.

SENATOR HOUGH: There is no question in my mind that prenatal will remain in the budget. I don't know how else that I can answer you.



SENATOR MCLANE: Well, that's a very satisfactory answer, and I guess the question is, is it the same thing as the last time, trust me, or how do we convey, who feel very strongly on this issue on prenatal care, that we want it in the budget, if you've given us this choice of putting it inexpedient?

SENATOR HOUGH: You will have a budget document that you will act on. And when you act on it, you will find it in the budget.

SENATOR MCLANE: If a bill goes through with an appropriation and that same appropriation is in the budget as it goes through, is it possible later in the process to reconcile those two?

SENATOR HOUGH: You always raise the risk if you have an independent appropriation out there, than if you try to accommodate your budget act with a anticipation of that item, you may find out that you have understood what is needed, reduced your budgetary appropriation line in anticipation of a bill that is floating around singularly, you could use both.

SENATOR MCLANE: Thank you.

Division vote.

Yeas: 7

Nays: 14.

The Motion of Inexpedient To Legislate Fails.

SENATOR HOLLINGWORTH: I would like to move to have SB 177-FN, tabled at this time.

Adopted.

Senator Hollingworth moved to have SB 177-FN-A, LAID ON THE TABLE.

SB 177-FN-A, is LAID ON THE TABLE.

**SB 192-FN-A**, an act relative to the office of chief medical examiner and making an appropriation therefor. Finance committee. Ought To Pass. Senator Hough for the committee.

SENATOR HOUGH: Who does now move that we pass a floor amendment that either is being passed out or before you. I can speak to that while they are passing it out. The amendment maintains the hold harmless for the medical examiner, and again, the position of diener in the pathologist office is established. And again, the appropriation for the position will be handled in the July 1 bien-nial budget.

Senator Hough offered a floor amendment.

SENATOR HUMPHREY: Senator Hough, what is a diener?

SENATOR HOUGH: A position in the pathologist office. I believe that you will find that this position is the individual that analyzes blood samples.

SENATOR HUMPHREY: Well, in that case . . . .

SENATOR HOUGH: I'll defer to Senator Nelson. It's a support position of the pathologist, who is presently doing the work himself.

SENATOR NELSON: Correct, he is presently doing the autopsies himself.

SENATOR HUMPHREY: In that case, I'm glad that it's diener, and not diner.

### **Floor Amendment to SB 192-FN-A**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to the office of chief medical examiner.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Indemnification of Chief Medical Examiner. Amend RSA 611-A by inserting after section 11 the following new section:

611-A:12 Indemnification of Medical Examiner. The provisions of RSA 99-D shall apply to the chief medical examiner and any other medical examiner employed in the office of the chief medical examiner for claims arising from the scope of their official duties, including, but not limited to, the practice of forensic pathology and the practice of clinical forensic medicine.

2 New Position Established. There is hereby established the classified position of diener within the office of the chief medical examiner at labor grade 18.

3 Effective Date.

I. Section 1 of this act shall take effect July 1, 1991.

II. Section 2 of this act shall take effect November 1, 1991.

### **AMENDED ANALYSIS**

This bill provides for indemnification of the chief medical examiner and any other medical examiner employed in the office of the chief medical examiner by the state for any actions arising from the performance of their official duties.



The bill also establishes a diener position within the office of the chief medical examiner.

Floor Amendment Adopted.

Ordered To Third Reading.

**SB 204-FN**, an act waiving tuition for state troopers enrolled in any state school, college or university. Finance committee.

Interim Study. Senator W. King for the committee.

SENATOR W. KING: As you will remember, this bill was passed to the Finance committee. A similar bill to this was killed in the House. The Finance committee felt that there was some financial issues relative to the University of New Hampshire that were unresolved, and that's, but that the bill's, both this bill and 227 had merit and that we wanted to have some time to look at the financial repercussions of it.

SB 204-FN, is sent to INTERIM STUDY.

**SB 210-FN-A**, an act relative to drugged driving and making appropriation therefor. Finance committee. Ought To Pass. Senator Blaisdell for the committee.

SENATOR BLAISDELL: This is Senator Fraser's bill. I can defer to him. All I know is it doesn't affect the general funds. It is out of the highway fund and I commend Senator Fraser for putting this bill in, it's an excellent piece of legislation.

SENATOR FRASER: Mr. President, this is probably the most important piece of legislation that I personally will sponsor this year. The program has been in place for about four years. The money was being construed by the highway and by the Attorney General's office, who was all federal money. The position's are already filled. I spent a better part of yesterday, going through these laboratories. The Senate might be interested to know that we're the first state to solve the problem, how to separate proteins so that we now have the capability of testing for seven different drugs. Of course we have already been, the highway fund is already paying for the DWI testing. What testing that has been done on drugs here, Mr. President, has been sent out of state at the cost of about \$400 per test. The computers are up and running, the people are in place. All of the money that will be appropriated is coming out of the highway fund. Just to give you some idea of the highway safety, the Attorney General's office, the Police Chief's Association, Department of Safety, Public Health, and the Governor's Highway DWI Task Force, all appeared in favor of this legislation. I urge the Senate to adopt it. Thank you.

SENATOR SHAHEEN: Senator Fraser, yesterday we heard in Capital Budget, we heard the Commissioner of the Department of Transportation testify that the highway fund is \$9,000,000 in deficit. And I guess my question is, given that, where is the money for this program going to come from?

SENATOR FRASER: Senator Shaheen, I don't know, except that they have the funding. You know, all I know is that the highway department testified that they supported the bill. And it qualified and they had the money to fund it, so to answer your question, I don't know.

SENATOR NELSON: I do support the bill, but I do commend my colleague, Senator Shaheen, for bringing this to our attention. It's, I am in favor of getting drugged drivers off the road, but it always astounds me, that we can find \$557,164 and somehow, it's O.K. for this project, and I agree we have to fight crime and get these people off the road, and it is innovative, and I commend the sponsors, but the fact of the matter is, the highway fund is \$9,000,000 in debt. And I just find it very difficult to have us supporting something like this on the one hand, and making other people who are living and breathing and needing food to exist, we have to justify that with statistics beyond. We don't know where the money is, well there is no money right now in the highway fund for this bill and I just find it hard to understand, although I am against drugged drivers on the road, sir. Thank you.

Adopted.

Ordered To Third Reading.

**SB 220-FN**, an act relative to foster care. Finance committee. Ought To Pass. Senator Hough for the committee.

SENATOR HOUGH: Clearly this bill is a correct piece of legislation. It expands the youngsters who are in the foster care programs from the age 18 to 20. You might ask will that be while in school, and you might be concerned with the fiscal impact, it actually is little or nothing, because there are other provisions in the law that in the settlement law that already take care of virtually all of the these children anyway. Those that may be in families, predating the court ordered placement, would be allowed to remain in the families to the age of 20, and we agree with it.

Adopted.

Ordered To Third Reading.

**SB 227-FN**, an act relative to tuition free classes at state universities for local police officers. Finance committee. Interim Study. Senator W. King for the committee.



SENATOR W. KING: What we have here is essentially the same issue that we just talked about. An issue with merit, but we are not sure of the financial ramifications and so we ask that you allow us to study this bill?

SENATOR NELSON: I rise in opposition to this bill. We don't have the money, we can't . . . The University of New Hampshire is in tough enough shape. This is something that we don't need. I don't think that we should study it, because we are going to have take one of the individuals in this room, or four or five of you, and stick you on this committee, spend mileage on this, for something that we just can't accomplish. I know it's not a nice thing to be saying, and it's not popular, and I might get stopped in my area. But I think that we ought to take a look at these 3,500 study committees. I mean I know that is a gross exaggeration, but this bill is so inappropriate at this time, that I won't support interim study on the grounds that it's not necessary. Thank you, Mr. President.

SENATOR BASS: Senator Nelson, would you believe that Senator St. Jean, who I believe is the sponsor of this bill, told me that he finds himself with a lot of extra time now this summer, and he would be glad to study it?

SENATOR J. KING: I'll go along with Senator Nelson, as far as making it inexpedient to legislate. Not because the bill isn't worthwhile. Because let's call a spade a spade and do what should be done.

Division vote.

Yeas: 1

Nays: 22.

Interim Study Motion Fails.

SENATOR J. KING: I move that SB 227 be Inexpedient to Legislate.

Inexpedient To Legislate Motion Adopted.

### **Report of Committee On Enrolled Bills**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

**HB 50**, relative to state revenue of expenditures.

**HB 593**, relative to the rate of the business profits tax.

Senator Currier moved adoption.

SENATOR FRASER (RULE #44): Earlier today, in the heat of debating SB 1, both Senator Heath and Senator St. Jean suggested that if they didn't, if their amendment wasn't adopted, they would opt not to serve as Chairman and co chairman of the committee. We've been through a great deal since that time, Mr. Chairman. I

don't always agree with Senator Heath, nor do I always agree with Senator St. Jean, but there are no two gentlemen in this room that I have more respect for. And I would urge them on behalf of this Senate, to reconsider their position and accept the responsibility that they have previously opted to accept.

SENATOR COLANTUONO (RULE #44): I echo those comments. Thank you, Senator Fraser. But I have a real rule #44. When you're unwarranted criticism, and that is what I want to tell the body about, Senator Russman knows. I'm glad that we did what we did to those police bills. TAPE INUADIBLE. I spoke against them because I thought that they were going too far, but I got, as a result of that I got a very nasty letter from a state trooper, who accused me of saying; that I thought, or I said on the floor that I thought all TAPE INAUDIBLE.

Senator Delahunty moves that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

### LATE SESSION

#### Third Reading and Final Passage.

**SB 1**, relative to the senate committee which is to study redistricting state senate districts.

**SB 2**, relative to the senate committee which is to study redistricting congressional districts.

**SB 66**, an act relative to durable power of attorney for health care.

**SB 123**, an act relative to the wine industry of New Hampshire.

**SB 70-FN**, an act relative to superior court clerks for Hillsborough County.

**SB 193-FN**, an act relative to limits on motorboats speeds.

**SB 174-FN**, an act relative to possessing and dispensing prescription drugs by nonprofit family planning agencies.

**SB 3-A**, an act relative to exit 10 on the Spaulding turnpike and making an appropriation therefor.

**SB 117-FN-A**, relative to expenditures by the public works bureau, extending certain lapse dates, making adjustments to certain bond authorizations, making certain appropriations, relative to the port authority, and making an appropriation therefor.

**SB 162-A**, an act relative to rebuilding, modernizing, and maintaining rail properties and making an appropriation for the Conway branch line.



**SB 7-FN-A**, an act relative to an industrial research center at the University Of New Hampshire.

**SB 13**, an act relative to transferring funds between and among line items in the postsecondary technical education department.

**SB 18-FN-A**, an act relative to the conservation corps program and making an appropriation therefor.

**SB 28-FN-A**, an act relative to promoting New Hampshire businesses and products internationally.

**SB 33-FN**, an act relative to establishing a nonlapsing account for the New Hampshire technical institute and vocational technical colleges and creating the position of director of financial management.

**SB 39-FN**, an act relative to reopening liquor stores.

**SB 62-FN**, an act relative to licensure of athletic trainers.

**SB 69-FN**, an act relative to certification of professional counselors.

**SB 71-FN-A**, relative to superior court justices.

**SB 72-FN-A**, establishing and continually appropriating a fund for the purchase of vaccines.

**SB 90-FN**, an act relative to the Salmon Falls Road in the cities of Somersworth and Rochester.

**SB 120-FN-A**, an act establishing a sunset committee and restoring the sunset review process and making an appropriation therefor.

**SB 126-FN**, an act relative to groundwater classifications.

**SB 127-FN**, an act relative to removing vegetation obstructing advertising devices and planting lilac bushes.

**SB 128-FN-A**, an act relative to the development of an electronic benefit transfer system and making an appropriation therefor.

**SB 144-FN-A**, an act relative to the Women's War Memorial and making an appropriation therefor.

**SB 156-FN-A**, an act establishing a committee to study the SAU structure within the state of New Hampshire and making an appropriation therefor.

**SB 170-FN-A**, an act to study the revenue structure in New Hampshire and making an appropriation therefor.

**SB 173-FN-A**, an act relative to senior "meals on wheels" and senior transportation and making an appropriation therefor.

**SB 176-FN**, an act relative to ophthalmic dispensing.

**SB 192-FN-A**, relative to the office of chief medical examiner.

**SB 210-FN-A**, an act relative to drugged driving and making appropriation therefor.

**SB 220-FN**, an act relative to foster care.

Senator Delahunty moves that the Senate be in recess until Tuesday, April 2, 1991 at 1:00 for the sole purpose of introducing legislation, referring bills to committee, and scheduling hearings.

Adopted.

Recess.

Out of Recess.

## INTRODUCTION OF HOUSE BILLS

### First and Second Reading and Referral

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

**HB 173-FN** - establishing a committee to study certain provisions of RSA 154 relative to powers and duties of firewards. Executive Departments.

**HB 298-FN** - lowering the level from .10 to .08 for legal intoxication under the DWI laws. Transportation.

**HB 307-FN** - establishing a committee to review New Hampshire's bankruptcy laws. Judiciary.

**HB 348** - relative to the municipal records board. Executive Departments.

**HB 390** - relative to technical corrections in the liquor laws. Ways & Means.

**HB 391** - to permit the adoption of impact fees as part of a zoning ordinance. Executive Departments.

**HB 406** - relative to modification of support orders. Judiciary.

**HB 429** - relative to the salaries of county attorneys. Executive Departments.

**HB 441** - relative to the uniform limited offering exemption from securities registration and filing requirements. Banks.

**HB 442-FN** - authorizing the commissioner of agriculture to establish minimum price rates for small producers. Environment.



HB 447 - relative to bulk commodities. Public Affairs.

HB 456 - prohibiting bear baiting. Wildlife and Recreation.

HB 465 - relative to a veterans' cemetery at the Pease Air Force facilities under the Pease development authority. Economic Development.

HB 482-FN - relative to temporary guardianships. Judiciary.

HB 542 - relative to the time frame for submitting school district meeting warrant articles and the number of petitioners necessary to submit a warrant article. Public Affairs.

HB 547-FN - relative to the date for the application of the optional veterans' exemption and the optional exemption for the surviving spouses of veterans in certain towns. Executive Departments.

HB 548 - relative to the information required on checklists. Public Affairs.

HB 561 - enabling towns to limit reconsideration of town meeting votes. Public Affairs.

HB 574-FN - relative to managing general agents. Insurance.

HB 579 - relative to municipal charters. Public Affairs.

HB 580 - relative to insurance rebates and automobile financing. Insurance.

HB 583-FN - relative to carrying pistols and revolvers. Wildlife and Recreation.

HB 589-FN - relative to holding companies. Insurance.

HB 595-FN - relative to citations for building code and land use violations. Judiciary.

HB 603-FN - to establish a mandates task force to recommend modification or repeal of those unfunded mandates imposed upon municipalities and school districts. Executive Departments.

HB 621-FN - relative to voting by absentee ballot. Public Affairs.

HB 624-FN - relative to removing candidates' signs after an election. Public Affairs.

HB 625-FN - relative to hearings on tax abatements for property taxes. Internal Affairs.

HB 652-FN - relative to the duties of the board of tax and land appeals and the department of revenue administration. Internal Affairs.

HB 655-FN - relative to statistical reports. Education.

HB 658-FN - relative to uninsured or hit-and-run motor vehicle coverage. Insurance.

HB 667-FN - relative to clean-up of health nuisances. Executive Departments.

HB 670-FN - relative to condominium conversion of manufactured housing parks. Public Affairs.

HB 680-FN - relative to manufactured housing on the land of another. Ways and Means.

HB 701-FN - relative to protecting personal privacy. Judiciary.

HB 709-FN - establishing a study committee relative to clearcutting forest resources and extending the effective date for rulemaking by the board of licensing for foresters. Environment.

HB 710-FN -relative to the regulation of tree stands, observation blinds, and pit blinds. Wildlife.

HB 723-FN - relative to Concord — state cooperation. Internal Affairs.

HB 736-FN - relative to energy facility siting, licensing and operation. Executive Departments.

HB 743-FN - relative to listing representatives to the general court on the ballot. Public Affairs.

HB 754-FN - relative to the duties of the secretary of state, the election laws, and certain miscellaneous statutes. Public Affairs.

HB 757-FN - repealing the law relative to employment offices. Executive Departments.

HCR 11 - relative to abortion drug RU486. Judiciary.

### LATE SESSION

Senator Delahunty moved that the Senate adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 2, 1991.

Adopted.

Adjournment.



*April 2, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, now that the holidays are over, which brought us joy, strength, and hope, we now face the greatest tax month, April. So we gather together to contribute money before the 15th and look forward to whatever taxes may befall us. Que Est. Remember, there is nothing more certain than death and taxes! Good Lord, Deliver Us!!! Amen.*

Senator Colantuono led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

### INTRODUCTION OF SENATE BILLS

**SB 10-FN**, establishing a study committee on bonuses for veterans who served in the Persian Gulf. Blaisdell of Dist. 10 et al - To Finance.

### MOTION TO VACATE

Senator J. King moved to **VACATE HB 571**, an act relative to multiple employer welfare arrangements, from Public Institutions, Health & Human Services to Insurance committee.

SENATOR J. KING: I moved to vacate HB 571, and act relative to multiple employer welfare arrangements, from Public Institutions, Health & Human Services to Insurance. The bill deals with Insurance, rather than health.

Adopted. HB 571, is Vacated to Insurance.

### INTRODUCTION OF GUESTS

PRESIDENT DUPONT: We have the privilege of having a special guest today, continuing our tradition of having our distinguished leaders from Washington, join us and say a few words. So it gives me a great deal of pleasure to introduce the Congressman from the second district, Congressman Swett.

CONGRESSMAN DICK SWETT: Thank you very much. It's a pleasure to be here. I am a bit surprised by the invitation, and I appreciate your giving me a couple of minutes to share with you, just a couple thoughts. I just spoke to the House, and I will just

reiterate to you, the theme that I spoke of there. And that is the theme that I hope, that I can carry forward, which you certainly in this body, have already established, and that is the dialogue of democracy. It is my hope and prayer that as we go through the years ahead, that I'll have the opportunity of getting to know each and every one of you better, and that we can work together, and that we can solve the problems that this state is facing. And through that effort I think we'll have rekindled that spirit of democracy. I appreciate your time for all that you do, for dedicating yourselves to the public good, and I use you as an example in my life, because it's much harder for you to do it, with the resources that you have, and what I am afforded by your generous tax dollars. Thank you very much for the opportunity to be of service to you, and I hope that you'll call on me at any time that you need some help. Because I think that that is my rightful role in this whole scheme of things and that I will be more than pleased to help you in any way that I can. Thank you very much.

### COMMITTEE REPORTS

**HB 171-FN**, an act relative to maintaining the "Old Man of the Mountain." Environment committee. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** This was an interesting hearing because we have the Old Man himself. They were at the hearing, being Neil Neilsen, who has been the caretaker of the Old Man Of The Mountain for many, many years and he got going on the cooling power of epoxy, and a few things. We learned a lot about the Old Man Of The Mountain, and the repair work that has been done on it, that we more than perhaps needed to know in order to pass this bill. The bill directs the DRED to finance the semi-annual inspection. He carefully told us how many jugs of epoxy that he had on hand, and how much it was going to cost. I don't think that it's going to cost the state very much, and obviously, we are very fortunate to have the Neilson family as caretakers of one of our most important symbols.

**SENATOR OLESON:** I just rise in support HB 171, The Old Man Of The Mountain, in New Hampshire no doubt you know is maybe one of the top, major attractions in our state. It is known internationally, and this bill simply protects the Old Man Of The Mountain for posterity.

Referred to Finance (Rule #24).

**HB 240**, an act relative to the disposition of the Kona Wildlife Management Area. Environment committee. Ought To Pass. Senator Currier for the committee.



SENATOR CURRIER: Kona Wildlife Management Area seems to come back and forth to the Senate every session, for one reason or another. The previous bill dealing with this Wildlife Management Area in terms of maintaining that in perpetuity, I believe was the term. This bill basically adds the Kona Wildlife Management Area to the list of public lands that are owned and retained by the state of New Hampshire.

Adopted.

Ordered To Third Reading.

**HB 402**, an act relative to placing lime and wood ash on farmland. Environment committee. Ought To Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: HB 402, relative to placing lime and wood ash on farmland, ought to pass by the committee. The purpose of the bill, was a housekeeping measure, it was an oversight when the bill was brought before the body last year in the rivers bill. And wood ash at that time was not considered waste, and it now is. This was supported by the Farm Bureau, and the Department of Agriculture. We would urge you to support this legislation.

SENATOR COLANTUONO: Senator, at the committee hearing, was any distinction made between clean wood ash that is burned by wood that hasn't been used in construction and so forth, and wood that has been used in construction may have been painted or creosoted, or anything like that?

SENATOR HOLLINGWORTH: I'm sorry, Senator Colantuono, I don't recall that being mentioned. I do recall that the Timber Association supported it, said it was cost saving, and it did support the timber industry, so it was my belief at that time, that it was only talking about new wood.

SENATOR COLANTUONO: Would it be fair to say that that is the intent of this legislation?

SENATOR HOLLINGWORTH: Yes.

SENATOR COLANTUONO: Thank you.

Adopted.

Ordered To Third Reading.

**HB 459**, an act relative to notice received by the wetlands board from local conservation commissions. Environment committee. Ought To Pass. Senator Russman for the committee.

SENATOR RUSSMAN: All this does is, instead of ten days, it extends it to 14 days in which gives the Conservation Commission an opportunity to get in touch with the Wetlands Board to comment on any proposals, and ten days with weekends and whatnot, simply isn't enough. At one time there was talk about ten working days, and they decided that 14 days would be sufficient. So that is what the request is, for four additional days.

Adopted.

Ordered To Third Reading.

**HB 491**, an act relative to the collection of the normal yield tax in unincorporated towns and unorganized places. Environment committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: Apparently, over the last two years, Mr. President, a lot of legislation was adopted, addressing unincorporated towns. One issue that was left unattended to, was the timber tax, which hit a forest and collected by the Department of Revenue Administration. All this bill does, is allow the local county commissioners to collect that tax, and to keep the \$12,434 in the county, rather than to pay the money to the Department of Revenue Administration. Beyond, once the money is collected, it's disbursed in the same way that it's disbursed now, Mr. President. I urge the Senate to adopt the bill.

Adopted.

Ordered To Third Reading.

**HB 106-FN**, an act establishing a committee to study the feasibility of an enhanced statewide uniform emergency 911 telephone system. Executive Departments committee. Ought To Pass. Senator Currier for the committee.

SENATOR CARRIER: This bill establishes a study committee for the feasibility of an enhanced statewide emergency uniform number of 911. This is a study committee that will be working the implementation of this universal number. As a tourist state, New Hampshire doesn't have any universal number, and with 14 independent telephone companies, it is very hard for tourist's to determine what the local emergency numbers are, and this study committee will be working on a means to implement that program on a statewide basis.

Adopted.

Ordered To Third Reading.



**HB 174**, an act relative to the appointment of a deputy town clerk by the elected town clerk. Executive Departments committee. Ought To Pass With Amendment. Senator Pressly for the committee.

**SENATOR PRESSLY:** This is a bill that the committee unanimously, recommends ought to pass with amendment. This will enable each community, each municipality to select a deputy town clerk. It is strictly enabling legislation, and we feel that it is acceptable and good, and suggest the amendment and the full bill.

#### **Amendment to HB 174**

Amend RSA 41:18 as inserted by section 1 of the bill by replacing it with the following:

41:18 Deputy Town Clerk. Each town may have a deputy town clerk who shall be qualified in the same manner as the town clerk and who shall perform all the duties of the town clerk in case of his absence by sickness, resignation, or otherwise. A deputy town clerk appointed hereunder shall be appointed by the elected town clerk with the approval of the selectmen.

Amendment Adopted.

Ordered To Third Reading.

**HB 319-FN**, an act establishing a committee on access to health care. Insurance committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The committee on Insurance would like to ask support of ought to pass with amendment on HB 319. This is a continuation of a group that studied health care for those who could not afford it. This bill will try to implement the information that was given to them in the prior year. When this bill was originally passed, the health care needs for those who could not afford it was at five percent, it is now increased to 12 percent of the people who need this kind of coverage, and we are asking that you would pass this legislation as amended.

#### **Amendment to HB 319-FN**

Amend RSA 126-A:10-c, I as inserted by section 1 of the bill by inserting after subparagraph (q) the following new subparagraph:

(r) One individual representing the New Hampshire Nurses Association, appointed by the president of such association.

Amend RSA 126-A:10-c, II as inserted by section 1 of the bill by replacing it with the following:

II. The term of office of each member appointed under paragraph I(l) through (r) shall be 2 years and until a successor is appointed and qualified. The term of office for any other members of

the advisory committee shall be co-terminous with the term of office in the position that qualifies that member to be a member of the advisory committee. A vacancy shall be filled in the same manner but only for the unexpired term.

Amendment Adopted.

Ordered To Third Reading.

**HB 333**, an act relative to notification of insurance cancellation. Insurance committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN**: This bill essentially would clarify all the notice of cancellation requirements, and it would actually simplify it, in terms of how the notice will be given and to whom it would be given to.

Adopted.

Ordered To Third Reading.

**HB 414**, an act relative to unfair claim settlement practice. Insurance committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN**: This bill basically was put in here and there was new language added to appease the various carriers as far as what just cause meant and things of that nature. And what would actually qualify to be improper conduct in terms of what insurance practices would be as far as settlement of claims.

Adopted.

Ordered To Third Reading.

**HB 116**, an act relative to a definition of active military service in relation to representatives and senators. Internal Affairs committee. Ought To Pass. Senator Roberge for the committee.

**SENATOR ROBERGE**: I move to have HB 116, Laid On The Table.

Adopted.

**HB 116**, is LAID ON THE TABLE.

**HB 219-FN**, an act establishing a committee to study the economic feasibility of utilizing vacant space at the New Hampshire hospital, including the Walker building, for certain state offices. Internal Affairs committee. Inexpedient To Legislate. Senator Roberge for the committee.

**SENATOR ROBERGE**: There is money in the budget to study the New Hampshire hospital and campus as a whole and we felt this bill was not necessary.



Committee Report Adopted.

**HB 138-FN**, an act relative to spousal support. Judiciary committee. Ought To Pass. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** And I hope that this time I can speak a little more clearly, hopefully. HB 138, relative to spousal support. The committee found that this bill ought to pass. This bill would remove spousal support from the wage assessment law. Currently the law allows for wage assessment for children support, or a combination of a spousal support and child support through the Division of Health and Human Services. In order to continue to receive federal money, the wage assessment for spousal support can not go through the Division. There was no opposition to the bill. The wage assessment would go directly from the employer to the spouse, and would not be processed through the division. We urge you ought to pass.

Adopted.

Ordered To Third Reading.

**HB 180-FN**, an act to establish a study committee to evaluate whether a consortium of all law libraries in the greater Concord area is economically feasible and practical. Judiciary committee. Ought To Pass With Amendment. Senator Podles for the committee.

**SENATOR PODLES:** TAPE INAUDIBLE.

### **Amendment to HB 180-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

to establish a study committee to evaluate whether a consortium  
of all law libraries within the state of New Hampshire  
is economically feasible and practical.

Amend the bill by replacing section 1 with the following:

1 Committee Established. A committee is hereby established to study whether it is economically feasible and a more efficient use of resources to create a consortium of all law libraries in the state of New Hampshire.

Amend section 2 of the bill by inserting after paragraph VII the following new paragraph:

VIII. A representative of the New Hampshire College and University Council, appointed by the council's executive director.

### AMENDED ANALYSIS

This bill establishes a study committee to evaluate whether a consortium of all law libraries in the state of New Hampshire is economically feasible and practical.

Amendment Adopted.

Ordered To Third Reading.

**HB 202-FN**, an act to extend the time period within which a corporation may reinstate its charter, relative to revival of charters of voluntary corporations, and reviving the charter of the Bristol Federated Church. Judiciary committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: TAPE INAUDIBLE.

### Amendment to HB 202-FN

Amend RSA 293-A:95, I(f) as inserted by section 2 of the bill by replacing it with the following:

(f) The secretary of state shall not permit any other individual, corporation, or other business entity to assume the name of a corporation whose charter was forfeited under this section, or any trade name registered by such corporation pursuant to RSA 349, for a period of 120 days following the notice of forfeiture without the written consent of such corporation.

Amend the bill by inserting after section 4 the following and renumbering the original sections 5-10 to read as 6, 7, 8, 9, 10, and 11, respectively.

5 New Section; Applicability to Dissolved Corporations. Amend RSA 293-A by inserting after section 95 the following new section:

293-A:95-a Applicability. Any corporation dissolved by the secretary of state pursuant to RSA 293-A:95 on or after November 1, 1988, shall be eligible to apply for reinstatement of its charter as provided in this chapter.

### AMENDED ANALYSIS

This bill extends the period in which the secretary of state may permit a business corporation to reinstate its charter from 90 days to 3 years. Corporations shall be required to make application to the secretary of state for such reinstatement and to meet certain other conditions.



The bill requires the secretary of state to protect the name of an involuntarily dissolved corporation for a period of 120 days after dissolution. The corporation must change its name upon reinstatement if its name is not available at the time of reinstatement.

The bill authorizes the secretary of state to dissolve a corporation that fails to appoint or maintain a registered agent for a period of 60 days or more.

The bill provides that legal actions pending against a voluntary corporation during a period in which its charter was revoked shall not be affected by the reinstatement of the charter.

The bill also allows certain corporations dissolved by the secretary of state on or after November 1, 1988, to apply for reinstatement of charters under the provisions of RSA 293-A.

The bill revives the charter of the Bristol Federated Church which was revoked on April 26, 1977.

Amendment Adopted.

SENATOR BASS: TAPE INAUDIBLE.

Senator Bass offered a floor amendment.

### **Floor Amendment to HB 202-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

to extend the time period within which a corporation may  
reinstate its charter, relative to revival of  
charters of voluntary corporations, and  
reviving certain charters.

Amend the bill by replacing all after section 9 with the following:

10. Reinstatement of Kim Sing Realty Co., Inc. The charter of Kim Sing Realty Co., Inc., of Milford, New Hampshire, incorporated on May 28, 1973, was forfeited on November 1, 1989, under RSA 293-A:95, I(a). Upon payment of any fees in arrears, a reinstatement fee of \$100, an application fee of \$35, the filing of any annual returns required by law, and upon obtaining a certificate of good standing from the New Hampshire department of revenue administration, Kim Sing Realty Co., Inc. shall be reinstated for all purposes as a New Hampshire corporation, and this reinstatement shall be retroactive to November 1, 1989.

11 Repeal. RSA 292:30, II(g), relative to legal action pending against voluntary corporations, is repealed.

12 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill extends the period in which the secretary of state may permit a business corporation to reinstate its charter from 90 days to 3 years. Corporations shall be required to make application to the secretary of state for such reinstatement and to meet certain other conditions.

The bill requires the secretary of state to protect the name of an involuntarily dissolved corporation for a period of 120 days after dissolution. The corporation must change its name upon reinstatement if its name is not available at the time of reinstatement.

The bill authorizes the secretary of state to dissolve a corporation that fails to appoint or maintain a registered agent for a period of 60 days or more.

The bill provides that legal actions pending against a voluntary corporation during a period in which its charter was revoked shall not be affected by the reinstatement of the charter.

The bill revives the charter of the Bristol Federated Church which was revoked on April 26, 1977.

The bill reinstates the charter of Kim Sing Realty Co., Inc. which was forfeited on November 1, 1989.

Floor Amendment Adopted.

Ordered To Third Reading.

**HB 656-FN**, an act relative to criminal mischief. Judiciary committee. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: TAPE INAUDIBLE.

Adopted.

Ordered To Third Reading.

**HB 707-FN**, an act relative to contracts for services other than counsel. Judiciary committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: TAPE INAUDIBLE.

### Amendment to HB 707-FN

Amend the title of the bill by replacing it with the following:



## AN ACT

relative to contracts for stenographic and clerical services for indigent defense.

Amend RSA 604-A:6-a as inserted by section 2 of the bill by replacing it with the following:

604-A:6-a Contract Services. The state of New Hampshire, by the judicial council and with the approval of governor and council, may, within the limits of appropriations, contract with qualified firms or individuals in the state to provide stenographic and clerical services, where pursuant to RSA 604-A:6, the defendant has been found to be eligible for such services. The commissioner of administrative services shall authorize payments to such individuals and firms as provided for under this section.

## AMENDED ANALYSIS

This bill permits the state to contract for stenographic and clerical services for indigent defense.

The bill deletes a reference to the authority of the commissioner of administrative services to contract with attorneys for representation of indigents.

This bill was requested by the judicial council.

Amendment Adopted.

Ordered To Third Reading.

**HB 715-FN**, an act relative to the right to jury trial in civil cases.

Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: TAPE INAUDIBLE.

## Amendment to HB 715-FN

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted.

Ordered To Third Reading.

**HB 213-FN**, an act relative to rates set for medicaid and the administrative procedure act. Public Institutions, Health and Human Services committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: TAPE INAUDIBLE.

**Amendment to HB 213-FN**

Amend RSA 161:4, VI as inserted by section 1 of the bill by replacing it with the following:

**VI. MEDICAL ASSISTANCE PROGRAM.** The director of the division of human services and the director of the division of mental health and developmental services if authorized pursuant to RSA 126-A:4, IV, shall establish rates of reimbursement to providers of medical services under the medical assistance program administered under this chapter and RSA 167. Publication of rates of reimbursement shall be exempt from the provisions of RSA 541-A.

**AMENDED ANALYSIS**

This bill authorizes the director of the division of human services, department of health and human services and the director of the division of mental health and developmental services, department of health and human services to set reimbursement rates for providers of medical services in the medical assistance program (medicaid) and exempts such directors from the publication requirements of the administrative procedure act under RSA 541-A.

Amendment Adopted.

Ordered To Third Reading.

Senator Nelson in opposition to HB 213.

**HB 288-FN**, an act establishing a study committee on premature births.

Public Institutions, Health and Human Services committee. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** This bill establishes a committee to study premature births and neonatal deaths in the state of New Hampshire, and to submit its report for the 1992 legislative session. Presently, the state of New Hampshire does have an appropriation for an ambulance that takes premature babies up to the Hanover neonatal unit where the cost is \$14,000 a week to keep a baby in the neonatal unit. Anything that we can do to prevent, not only the human tragedy, but the money that it cost by having more premature births, is obviously, worth the time of this study committee.

Adopted.

Ordered To Third Reading.

**HB 330-FN**, an act establishing a committee to study the issue of an office of the ombudsman for children. Public Institutions, Health and Human Services committee. Ought To Pass. Senator McLane for the committee.



SENATOR MCLANE: This bill establishes a committee to study the issue of having an ombudsman. I would prefer that we establish an ombudsman, but because of the money situation, and because of the fact that there is some work to do in delineating the duties and responsibilities and particularly in deciding what division the ombudsman would go into. How they can effectively look over the Division of Children and Youth if they are part of that division. For that reason I would urge you to pass this bill.

SENATOR HUMPHREY: Senator McLane, I'm sure all of us know from having read our mail in recent weeks that there are a great many parents in the state who are critical of the Division of Children and Youth Services, and critical of the bill that I think that is coming for the Judiciary committee tomorrow. Can you reassure us, who share that concern, that this ombudsman is not yet another vehicle to undermine the rights of parents?

SENATOR MCLANE: I have read with great interest and surprised by the number of letters that I have received, mostly from the Calvary Baptist Church, about the issue of the Childrens Bill of Rights. This has nothing to do with that. In fact, one of the motivating circumstances for having this bill, was the problem that the DeCostas had with the justice service officer that came to their house and removed their children. Many of us have been impressed with the ombudsman that is now attached to the Division of Elderly, and the complaints that people have about problems in nursing homes are very effectively handled by this person who has the right to go into a nursing home and inquire and ask, and particularly in the case of children where the circumstances are always private. An ombudsman, I think, would be very helpful to both sides of the issue. Those who feel that the rights of parents are paramount, and those that feel that children have some rights, too.

SENATOR HUMPHREY: How might this ombudsman have helped in the celebrated case that you cited?

SENATOR MCLANE: Well one, they could establish the facts, which a private citizen, even the Minister of their church could have done. Secondly, they could be open to the idea that perhaps the Juvenile Service Officer didn't handle the case in the best possible fashion. The business, as you can imagine, of removing a child from a home is extremely traumatic for everyone. And it's like police coming to search your house, it has to be done correctly, if it is done. And I think that perhaps no ombudsman could have lessened the problem that the DeCostas had dealing with the division that was very, very defensive and sensitive. You have young juvenile service officers going into homes who this is their first case. They have a 29

percent turnover rate in that division, and they have 30,000 to train. Everybody in the division, they've got their problems and they don't want to admit it, but the ombudsman is the one who represents the common good, and I think that it would have made a difference.

SENATOR HUMPHREY: Well, in the event that the study committee recommends legislation, will the Senator work with those of us who have concerns about the potential of undermining parental rights in shaping such legislation?

SENATOR MCLANE: That would not be my primary concern, but I understand your point of view, and I would hope that the office of ombudsman would be helpful to both sides.

SENATOR HUMPHREY: That didn't quite address the question. Will the Senator work with us that have that concern in shaping any bills that might arise out of this committee, study committee?

SENATOR MCLANE: I guess you're asking me a personal question about sharing your point of view. I plan to have a good battle with you on the floor about the childrens bill of rights, because I disagree. But I think that the ombudsman is going to be really more helpful to your point of view than mine, and for that reason, I would be very happy to understand your concerns as we set the duties of what the ombudsman is suppose to be. So that the answer is, a long answer is yes.

SENATOR COLANTUONO: Senator McLane, most of the study committees that we see are worded in such a way that they are designed to study whether or not that we should do something. This bill doesn't go into that question and sort of presupposes that we are going to have an ombudsman. And that we are simply going to study what the ombudsmen duties are going to be and so forth and how much it is going to cost. Don't you think that we are putting the cart before the horse here, and don't you think this bill should study whether we should have an ombudsman or not?

SENATOR MCLANE: I think that the bill, the intent of the study committee is to be more specific. Where should the ombudsman be attached, what are their duties. I think that it is perfectly possible, that the committee would say, look we don't think that this is going to work, and make that their report. I think what is more possible is that the committee will come out with a bill for an ombudsman and get into the legislature in the next session and discover that there isn't any money again.

SENATOR HEATH: Senator McLane, you have been in this institution long enough to remember the struggle that we had between the House and the Senate gaining equity in the terms of numbers in the



people on these committees. How is it that this got by a Senate committee leaving seven members of the House on it and only two members of the Senate?

SENATOR MCLANE: I will read from the testimony of Bill McCain, who is the instigator of this bill. He says . . .

SENATOR HEATH: You appropriately phrased that.

SENATOR MCLANE: He says that he put it together, a study committee of his committee, Children and Youth in the House, House Judiciary and Appropriations. I put only two Senators on it, because I want the Senate to make their own decisions, and I think it was the belief of our committee, we've killed several study bills. And that two of us is enough and we can take on seven House members at any time.

SENATOR MCLANE: But, Senator McLane, does not doing that, whether you ignore the proposition, you could bring the number of House members down to two as well. But does leaving this inequity begin to establish a, once more, the precedent that we fought so hard to gain with the House in having equal numbers on both sides.

SENATOR MCLANE: Senator Heath, I will be very frank with you. Our committee did not concern itself with that. We listened to the House and I guess it was just something that didn't concern us. We felt that we could hold our own. We're worth 17 of them.

SENATOR HEATH: Senator, would you be Amenable to amending that before it leaves the Senate, to find an equitable position with the House?

SENATOR MCLANE: I guess I would have to consult with the President of the Senate, in whether this is an important point in the entire relationship between the House and the Senate. From our point of view, I don't think it was important.

SENATOR HEATH: Are you going to consult with the Senate President on that?

SENATOR MCLANE: I have consulted with my colleague on my left, and I guess . . .

Recess.

Out of recess.

SENATOR NELSON: Senator McLane, I just had a question from a different point, and that is that I noticed that it seems as if it's a major undertaking, and I commend you for working so hard on it, but I noticed that you wanted to talk about the duties, the powers,

the management structure, and operating cost. Do you think there should be someone on that committee from outside of the legislative process, perhaps a, you know with all these people in the state, we have that deal with children, I can't think of the name of it, I'm sorry. Anyways, I just wondered if you thought that we should have some people with expertise, outside of the system to help us a little bit?

SENATOR MCLANE: The beginning, last session, there were three study committees on child abuse. I happened to be on all three, and I could never remember which one was which. We had enough studying from the outside. We are having public hearings on child abuse now. And I think that it was the impression of Representative McCain, that we needed, that one of the recommendations was to have an ombudsman, the same way as they do in the Division of Elderly, and that it was a legislative problem.

SENATOR NELSON: Thank you, Senator McLane, although an ombudsman office, would it be established only in cases of abuse, would not we be considering other issues all children affecting, I didn't notice it was confined to just abuse.

SENATOR MCLANE: No it isn't. I think that the office of ombudsman as it is in the Division of Elderly. Is a person to represent both sides of the issue in the issues dealing with the Division or department.

SENATOR NELSON: I would just recommend then, for whatever it is worth, that in that you are trying to bring to the forefront, the major issue in the state of New Hampshire, that to just strictly study it in the House, when you need the support of the whole state. That is where I am coming from, and that is why I am recommending that you take a second look at it, and consider some outside members who might give support, would you agree with . . . what do think . . . no would you believe?

SENATOR MCLANE: I think it is an important issue, and I am very much in favor of an ombudsman. But I do know that Senator King has a motion that will allow us to give some time to this issue.

SENATOR NELSON: Thank you, Senator McLane.

Senator W. King moved to have HB 330-FN, Laid On The Table.

HB 330-FN, is LAID ON THE TABLE.

**HB 331-FN**, an act establishing a legislative oversight committee on children. Public Institutions, Health and Human Services committee. Inexpedient To Legislate. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill establishes a permanent legislature oversight committee on children, establishing interesting



enough, there is some connection here, six House members and three Senate members. It also has established a special advisory board to advise this advisory committee, consisting of police chiefs, county people, and bar lawyers. It was felt that there was not ample enough precedent for them to establish a permanent committee that would be endless, never end, to deal with this subject. So therefore, the House decided to, the Senate decided that this bill should be reported as Inexpedient to Legislate.

Committee Report Adopted.

**HB 392-FN**, an act relative to payment of child support. Public Institutions, Health and Human Services committee. Inexpedient To Legislate. Senator J. King for the committee.

**SENATOR J. KING:** The committee voted Inexpedient to Legislate on 392-FN, for special reasons. First of all, the committee felt strongly that the court should have the final say. And the court should not be overridden by a division. Basically, that is what the law says, that they, contrary to what the court order is, they could still make their own order. The second reason is, the rights of the payer. And in this instance, there are usually two people involved, the payer and the payee. In this case here, the payee would be able to go to the division, get their permission, but the payer would have no say at all. We were also concerned about the possible case load increase, they said would be insignificant, but we heard that song before, too. We were concerned about other costs. For every check that you have to send out by the state, there is postage involved. At the present time, it's 29 cents for each check that you have to send out. Everytime you have a new one on there, that means another case for somebody in that department. If they don't pay, then to bring them back to court. All the cases now that they are handling are cases that are made by the court. Basically, that was . . . Right now they do take that AFDC cases. But I think that is an agreement and that has been in effect for a long time, but I think it's because they've become the payee, because their paying the AFDC out, so they want to make sure that they get their payments back and it goes directly to the welfare department. And that is basically, the reasons why we considered Inexpedient to Legislate.

Committee Report Adopted.

**HB 531-FN**, an act relative to personal care for the severely physically disabled. Public Institutions, Health and Human Services committee. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** Larry Robinson, from the Granite State Independent Living Coalition, came in to testify that it has been the law, but really not put into effect, that severely disabled, physically

disabled persons, have the approval of the Division of Voc Rehab for their personal care attendant, a PAC. There are over 500 of these in the state now, taking care of the severely disabled. There is a great turnover, and they really aren't being approved by Voc Rehab as it is, it would be a tremendous job to go around and approve of each one. And the key as Larry Robinson explained, is that it is terribly important for the severely disabled to manage and control their own lives, and one of the places that they should have complete control is over the person that gets them up in the morning, and gives them a bath, and gets them in their wheelchair, and gets them to work. So it's sort of an independence issue for the disabled, plus the fact that it really isn't being done now.

Adopted.

Ordered To Third Reading.

**HB 711-FN**, an act extending the reporting date for the committee to study child care in public and private sector buildings. Public Institutions, Health and Human Services committee. Ought To Pass. Senator J. King for the committee.

SENATOR J. KING: The committee felt that this ought to pass. They've requested that the study that they are doing now, be continued until November 1991. There was no money involved, and they offered their time, they were very generous, so we thought that we would take the time and have them do the study.

Adopted.

Ordered To Third Reading.

**HB 132-FN**, an act reclassifying portions of certain highways in the town of Sandwich. Transportation committee. Ought To Pass. Senator Heath for the committee.

SENATOR HEATH: I don't know if I should take the rule on this. This is a road that I live on. It looks like it's a win, win situation. I had nothing to do with the legislation coming forward, but if the town, this is essentially the town turning it over to the, the state turning it over to the town. The town picks up highway A, the state loses \$1,000 of repair cost, and if the town can keep the repairs for this road, and we don't carriage repairs on this road, because it leads to more traffic, so we're fairly frugal about that. If they can keep it under \$2,300 both sides will win, I'd urge your support.

Adopted.

Ordered To Third Reading.



**HB 167-FN**, an act relative to airman certificates and fees. Transportation committee. Ought To Pass. Senator Oleson for the committee.

**SENATOR OLESON:** This bill is merely a department bill. It seems that they can better utilize the personnel which they have at the present time, as you know practically every department has had a certain amount of their personnel dismissed. What it does, and the bill says it might give you the idea that the license fees are increased, it is not, instead, it's just like on your automobile license. Instead of registering it for one year, you're going to register it for four years. And on every four years, that does decrease, we have enough to load on the departments as far as issuing the license is concerned. So the license fees instead of being \$6 a year, it goes up to \$24 a year. As far as non-residents are concerned, it goes from \$10 a year to \$40 a year. As I've said before, it's a department bill, it makes it more efficient. I urge the support of the Senate. Thank you.

**SENATOR SHAHEEN:** How do you define an airman? What is an airman?

**SENATOR OLESON:** I yield that question to Senator Humphrey.

**SENATOR HUMPHREY:** A very special person. It means someone licensed to fly an aircraft. Fixed wing, rotary, balloon, that's what an airman is.

**SENATOR SHAHEEN:** A pilot?

**SENATOR HUMPHREY:** A pilot, yes.

**SENATOR SHAHEEN:** Thank you.

**SENATOR HUMPHREY:** I wasn't going to speak on this bill, and I will not at any length, but I just, I was absent from the hearing, I was in another hearing, I should say, when this bill came before the Transportation committee. And I just will question for the public record, and do nothing more at the moment. But question for the public record, the need for the state to license and collect a fee from citizens of this state, who are already licensed by the federal government to fly aircraft. It seems to me a duplication and a simple excuse to collect money from people in return for very little service, if any.

Adopted.

Ordered To Third Reading.

**HB 253-FN**, an act naming a certain segment of US route 202 the General Isaac Davis White highway. Transportation committee. Ought To Pass. Senator Currier for the committee.

SENATOR CURRIER: This bill designates that section of Route 202 and New Hampshire 101 in the town of Peterborough, to the New Hampshire, Massachusetts state line as the General Isaac Davis White Highway. And this is in Senator Bass', who was an airman's district.

SENATOR BASS: This airman of 20 years. This is my 21 anniversary, I guess. I would like to rise in support of the committees recommendation. General White, was quite a fellow. He retired as a four-star general from the military in the early 60's. I can remember well his return to Peterborough. And he is one of the few people in the military, who was able to have such a distinguished career and then do so much for his community afterwards in retirement, so I think it's a good tribute to this fine military person.

Adopted.

Ordered To Third Reading.

**HB 428-FN**, an act relative to the enforcement and administration of state taxes by the department of revenue administration. Ways and Means committee. Ought To Pass With Amendment. Senator McLane for the committee.

SENATOR MCLANE: This bill is a consolidated bill, it's quite large and thick and the Ways and Means committee didn't want to be hurried about it, but it is part of the supplemental budget, and so that we have looked it over as best we can. It has been worked on for three years by the Ways and Means committee, and the Division of Revenue Administration. It is not a tax raising bill, but a fairness bill, and it brings all the tax penalties together under one chapter. It also creates some criminal penalties, for the Division of Tax Administration. There is an amendment which answers a Supreme Court problem, we learned about to distraining, and distraining is when a debt which is to be collected, the goods and chattels of a person are distrained. The Supreme Court recently said that goods and chattels did not include bank accounts and so that the amendment allows the department to distrain bank accounts in New Hampshire for those people who have not paid their taxes.

SENATOR HOLLINGWORTH: This bill, as Senator McLane said, is extremely large and I have briefly gone through it. Unfortunately, I was not able to take and do the kind of research that I would like to. I guess what I would like to say is, in the future when we have legislation such as this, Senator McLane, is there someway that we can have more time, so that we can address this? I feel very apprehensive about supporting legislation that changes criminal law. It comes to Ways and Means, which is certainly not a committee that is



versed in the judicial process, and though I am going to support it, I am extremely uncomfortable about that, and I would like that to be part of the record, that I am supporting this because of the urgency under the supplemental budget, but that there is certainly some concerns that I have about this legislation.

SENATOR MCLANE: You will be relieved to know that I do share your concern. I think part of the reason that I was, besides the fact, that it was part of the supplemental budget, is that my trust for the three years of work that the Ways and Means committee put in, because I do know how hard they worked. I do think this is a good point to bring up, something that I had planned to talk with the President of the Senate about, is that I went to visit the Ways and Means committee today, in the House. And I am becoming more and more aware of the burden that is going to be on us, in two or three weeks, and I do think that committee should have some sort of staff, other than a secretary and this bill brought it out very clearly. All of us tried to read it as best we could. And I am basing my vote on trust for the work the Ways and Means committee put in.

SENATOR HEATH: Senator McLane, when you say fairness, I got frightened, and I even grabbed the bill to look.

SENATOR MCLANE: Thank you.

SENATOR HEATH: I heard the term abused. I looked at the fiscal impact and it says that the Department of Revenue Administration is determined that this bill will increase state revenues by 2 million to 4 million annually, so then I looked at the amended analysis, and I don't see anything in there that should do that, in what you would normally think of as fairness, provides provisions to protect the rights, privacy, and property of taxpayers, and as I go down through that, could you tell me how that revenue could be raised, 4 million is a lot of money?

SENATOR MCLANE: It is, but the business profits tax itself raises 117-109 million, depending on what you think is the figure today. Taxes are big business in the state of New Hampshire. And they need criminal code enforcement. They need enforcement, we know that, there are people in New Hampshire that aren't paying their taxes, and it cost money to collect taxes. I am assuming that by changing the standard of to beyond reasonable doubt. By doing the other things that it does within this chapter, that you're going to collect more money, but it's money that is owed you and the state of New Hampshire from people who are not paying their taxes now.

SENATOR HEATH: Senator, I guess I'm not satisfied. Four million dollars has got to come from somewhere, who will that come from?

SENATOR MCLANE: Tax evaders. And criminal penalties on tax evaders. Penalizing persons who make false declarations in returns of reports. Penalizing tax preparers who fail to turn money over to the state. Penalizing persons who knowingly operate without obtaining necessary licenses. There is lots to be done in the area of tax collection.

Recess.

Out of recess.

Senator McLane moved to have HB 428-FN, Laid On The Table.

Adopted.

HB 428-FN, is LAID ON THE TABLE.

**HB 121-FN**, an act relative to the mode of taking deer in Rollinsford.

Wildlife and Recreation committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill is a combination of three bills, 121, 141, and HB 347. All three deal with the taking of deer, the method of taking deer. This particular bill deals with Rollinsford, the other two deal with Dover and Somersworth. The bill basically, prohibits the use of any firearm other than a shotgun in these communities, because they are becoming so heavily developed now, it's not considered safe to use a high powered rifle for taking a deer. The committee urges your adoption of the committee report on HB 121, and also urges your adoption of the committee report on 141 and 347.

SENATOR HEATH: Isn't it true Senator Bass, that there were three bills, and that they, everybody was in favor that testified to those bills and that we rolled them into one for a speedier . . .

SENATOR BASS: That is correct, Senator Heath, and also, the three municipalities are close to one another, and so therefore, it was appropriate to have the law uniformed in all three.

SENATOR SHAHEEN: Senator Bass, why do we need to pass this as a state law? Why can we not just ask the communities to pass this as part of their local ordinances?

SENATOR BASS: I may have to defer to Senator Heath, but it's my understanding that if, that Fish and Game regulations are, this is a statutory requirement, there are other towns if you'd look at the amendment, in Strafford county, Durham, Lee, and Madbury are already limited and then there is a list in the counties in the state and apparently, this requires a statutory change, I'm not sure why it requires statutory, perhaps I could defer to Senator Heath.



SENATOR HEATH: Senator Shaheen, management of wildlife has always been left to the state level because, the wildlife moves over boundaries, and there needs to be some uniformity to the approach. Just because you'll get the real unbalanced, I mean we already have it on borders, state and federal borders, but to get a balanced approach to wildlife management, we have to do this. And the three bills vary slightly, and they were all local requests and we have always done this with a lot of areas in the state that have had to be because of population density changes, increases in density have gone to modify kinds of hunting and we felt that these three towns which essentially constitute sort of a hunting area together, people don't know as they are going through the woods when they move from a town to another town, that they should have a uniform law, that is the same, so that there will be less of a boundary. I mean there is ultimately, outside this area, there will be a boundary where the law goes back to the regular state law that prevails in the rest of the state. We wanted to make them parallel and putting them into one bill insured the parallel-ness of it. But they were all locally requested bills.

SENATOR SHAHEEN: O.K., thank you.

SENATOR DISNARD: Senator Heath, would you believe that the next bill that we are going to discuss, the next two bills also limit hunting in some way or another, especially in Dover. Did the people of Dover, and Rollinsford, have an opportunity to get together in a local meeting, to do away with hunting with regular firearms?

SENATOR HEATH: Senator Disnard, I can not answer that question, but there was no objection raised to these bills by any groups, and I suspect, having already been heard in the House, and having many clubs out there, and the Wildlife Federation that watches over that kind of legislation, and the Department which is sensitive to the sportsmen, that if there was an objection, locally, there would have been representatives in opposition. To my knowledge there wasn't any on the three bills. On the bills with Rollinsford, Somersworth, there was not one individual in opposition.

SENATOR DISNARD: Thank you.

#### **Amendment to HB 121-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to limiting the mode of taking deer in Dover,  
Rollinsford and Somersworth.

Amend the bill by replacing section 1 with the following:

1 Taking of Deer; Mode; Dover, Rollinsford and Somersworth. Amend RSA 208:3, V to read as follows:

V. Strafford County: Durham; Lee; Madbury; **Dover; Rollinsford; Somersworth.**

### AMENDED ANALYSIS

This bill prohibits the taking of wild deer in the town of Rollinsford and the cities of Dover and Somersworth by the use of any firearm other than a shotgun loaded with a single ball or loose buckshot, a muzzle-loading rifle or bow and arrow.

Amendment Adopted.

Ordered To Third Reading.

**HB 141-FN**, an act relative to limiting the mode of taking deer in Dover. Wildlife and Recreation committee. Inexpedient To Legislate. Senator Bass for the committee.

SENATOR BASS: Mr. President, I urge your adoption of the committee report of Inexpedient to Legislate.

SENATOR CURRIER: Senator Bass, I was just curious as to why adding Dover into this bill, why is it going to be Inexpedient?

SENATOR BASS: Because on the previous bill, HB 121, we took Dover, and Somersworth, and we put it into one bill, so that we could just save paperwork, more than anything else. They all say, all three say the same thing, they all deal with separate towns. All towns are adjacent and we thought it would be more efficient just to combine them into one bill and kill the other two.

Committee Report Adopted.

**HB 175-FN**, an act relative to the hunting of pheasants. Wildlife and Recreation committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: This is sort of desexists the law on pheasants. It says that it gets rid of those chauvinistic laws of ours. Essentially the department sets the terms of the hunting season for pheasants and for years they left out of the department's domain, the right to allow taking of either sex, and the way the law has read, and reads at this moment, is that you may shoot two male pheasants, or one male and one female pheasant. That was not for any other purpose other than there was the hoax that by leaving some female pheasants out there, that a great population of pheasants would evolve and as it is, it turns out that they were probably feeding the fox and the coyotes, more than anything else. So the department wants a latitude to manage the pheasants. There was no objection raised, and I would urge you to go with the committee report.



SENATOR MCLANE: Senator Heath, I rise in strong objection to this bill, on behalf of the female pheasants. What if someone went out and shot 100 pheasants?

SENATOR HEATH: Senator McLane, the passage of this bill, would protect the . . . no it wouldn't.

SENATOR MCLANE: Yea, right.

SENATOR HEATH: But, be assured that the . . . Your asking a serious question . . .

SENATOR MCLANE: I am.

SENATOR HEATH: The department allows the shooting of only two pheasant, per day. The people who buy the tags, paid for the pheasant. It is a put and take program, I don't feel very strongly about put and take programs, anyway, but the way it's managed is, the tags buy the pheasants and the number of pheasants is determined by the revenue from the tags, and the department determines how many are shot. To my knowledge it has always been just two pheasants. Instead of two males to one female ratio, this would make it equality.

SENATOR MCLANE: It seems to me that it would make it rather an elitist thing. If you want to put \$1,000 into pheasants, you could go and shoot 100 pheasant. That you put and take, meaning that you pay, how many . . .

SENATOR HEATH: What I am saying is that the whole pheasant program works like this; they take last years revenues from the sale of pheasant permits, they used to be stamps. They go shopping around usually, New York state, pheasant farms and they say, we took in \$20,000 in permits last year, how many pheasants will you give us for \$20,000? They run probably seven to eight dollars apiece. They take those, distribute them out over the state in the different sites that they have permission from the landowners to release them. Release them and only people who purchase those permits in that year, can go out and hunt pheasants and they are limited to two a day, maximum.

SENATOR MCLANE: That's my last question, if you take out two a day, and you take out one, maybe a female per day, isn't it obvious that you've written the bill so that you can shoot any number?

SENATOR HEATH: No, because rule-making authority in the department will then kick in, and I'm sure that the department would not allow more than two pheasants a day. I guess if they did anything, they would reduced it to one a day, but I'm sure that they will not increase the number of pheasants taken.

SENATOR RUSSMAN: Senator Heath, concerning the two limit per day. I didn't know that we were so awash in pheasants. I haven't seen that many that should be taken out of there, and I take it that your position is that you've been assured by the department, that they're not going to increase that to any more than two per day?

SENATOR HEATH: My guess is that there would be a riot by people who buy pheasant stamps because, there are some good dog out there, and there are some poor dogs, and there are people who don't hunt with dogs. And the people who don't hunt with dogs, and the people who hunt with poor dogs, would not have much of a chance if you increased it. The people with good dogs, would scoop up all the pheasants, and I think more people interested in the experience of hunting, than filling their bag full of pheasants. But I am certain in my own mind, I haven't talked to the department about this issue, that there would not be more than two per hunter, per day, allowed.

SENATOR SHAHEEN: I would actually, I'm like Senator McLane, would like to rise in support of this bill. I think that we have been dealing with sexism, and gender differences in bills for a long time, and it's nice to see that that has finally been taken out of the bill. Thank you.

SENATOR HEATH: More females will be shot . . .

SENATOR SHAHEEN: In that case . . . I oppose . . . .

### **Amendment to HB 175-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 Pheasant Hunting; References to Number and Sex Removed. RSA 214:9, X is repealed and reenacted to read as follows:

X.(a) If the applicant wishes to hunt pheasants, the agent shall thereupon issue a pheasant license or stamp which shall entitle the licensee to hunt, shoot, kill and take, except by the use of traps, pheasants during the open season.

(b) The fee for such license or stamp shall be determined by the executive director pursuant to RSA 541-A.

2 Fees for 1991 Open Season for Pheasant. The fee for 1991 licenses or stamps issued for pheasant hunting under RSA 214:9, X shall be \$10.

3 Effective Date. This act shall take effect upon its passage.

### **AMENDED ANALYSIS**

This bill deletes the reference to the number of pheasants and gender of pheasants that may be taken per day.



This bill also authorizes the executive director to determine the fee amount for a pheasant license or stamp pursuant to RSA 541-A.

This bill also establishes the fee for the 1991 season.

Amendment Adopted.

Ordered To Third Reading.

**HB 290-FN**, an act relative to the sale of hunting licenses. Wildlife and Recreation committee. Ought To Pass. Senator Heath for the committee.

SENATOR HEATH: The present law says that if you buy a hunting license in New Hampshire, that you have to present a certificate of hunter skills. I forget now, what it is called, let's see, a certificate of a satisfactory completion of a hunter safety, or hunter education course, or a previous hunting license, or the equivalent as determined by the executive director. The department apparently requested this bill, Representative Theriault, because they found that the equivalent is the language that they need in order to . . . some states they're hunting permits and not licenses, and there were some questions whether the director could honor those. So essentially, this simply gives the Director of Fish and Game the ability to pursue this policy that we've established, that people either have experience in/or a certificate of hunter safety completion for the sake of safety in the hunting field. And this allows them to better pursue that. It really is just a bookkeeping change to keep up with the policy that was long ago established on hunter safety.

Adopted.

Ordered To Third Reading.

**HB 325-FN**, an act relative to reciprocity of dog training. Wildlife and Recreation committee. Ought To Pass With Amendment. Senator Cohen for the committee.

SENATOR COHEN: This bill was agreed by unanimous vote, Ought to Pass. It's really two parts. The first part of the bill, simply prohibits a non-resident from training or using dogs for hunting in New Hampshire if the residents of New Hampshire are prohibited, restricted, or limited from training, or use of dogs for hunting in the non-residence states, or if it's just reciprocity there. The other part of the bill, is in your packet on page 11. Which seeks to protect wild black bear from being hunted with the use of telemetry equipment. I didn't understand what telemetry equipment was, but it's the use of radios, basically, to track the dogs to find out exactly where the bears are. The bill says that wild black bear shall not be taken with the aid or use of telemetry equipment. That equipment shall not be

used for the purpose of locating or following a trail of tree hounds during the opening season for taking bear, between the hours of a half an hour before sunrise and noon. But, telemetry equipment may be used for open season for taking bear later on in the day. Basically, what this does is, just seek to protect the sportsmanlike nature of bear hunting. If people can track the bears with the use of this radio equipment, it isn't particularly sportsmanlike. If as the bear hunter said, the telemetry equipment is only used for tracking their dogs, then that is fine, but tracking the bear doesn't exactly give the bears a real chance, so I would hope that this bill would also receive a vote of Ought to Pass.

### **Amendment to HB 325-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to reciprocity of dog training and restricting  
the use of telemetry equipment.

Amend RSA 207:12-b, I as inserted by section 1 of the bill by replacing it with the following:

I. Notwithstanding RSA 207:12-a, a nonresident shall not train or use dogs for hunting any specific wildlife species in this state during the period when residents of New Hampshire are prohibited from training or using dogs for hunting such wildlife species in the nonresident's state of residence or province or territory of Canada. This section shall also apply in cases in which the nonresident's state of residence or province or territory of Canada restricts or limits the number of dog training or dog hunting permits which are issued to citizens of New Hampshire.

Amend the bill by replacing all after section 1 with the following:

2 New Paragraph; Telemetry Restrictions. Amend RSA 208:22 by inserting after paragraph X the following new paragraph:

XI. Wild black bear shall not be taken with the aid or use of telemetry equipment. Telemetry equipment shall not be used for the purpose of locating or following trail or tree hounds during the open season for taking bear between the hours of 1/2 hour before sunrise and 12:00 p.m. Telemetry equipment may be used during the open season for taking bear between the hours of 12:00 p.m. and 1/2 hour before sunrise of the following day, for the purpose of locating trail or tree hounds, provided, however, that no person using telemetry equipment or hunting in conjunction with another person using telemetry equipment shall take a bear after such use has commenced.



Nothing in this section shall prohibit the use of telemetry devices for locating or following dogs being trained pursuant to RSA 207:12-a and 207:12-b.

3 Reference Added; Penalties. Amend RSA 208:22, IX(a) to read as follows:

IX.(a) Whoever violates the provisions of paragraphs I, II, III, IV, [and] VI, **or XI** shall, if a natural person, be guilty of a violation, and any other person shall be guilty of a misdemeanor, except that any person who exceeds the bag limit as determined pursuant to RSA 208:22, I shall be guilty of a misdemeanor.

4 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill prohibits a nonresident from training or using dogs for hunting any specific wildlife species in New Hampshire if residents of New Hampshire are prohibited, restricted or limited from training or using dogs for hunting such wildlife species in the nonresident's state, province or territory of Canada.

The executive director of fish and game shall determine the states, provinces or territories which prohibit, limit or restrict such use by New Hampshire residents.

This bill also restricts certain uses of telemetry equipment.

Amendment Adopted.

Ordered To Third Reading.

**HB 347-FN**, an act restricting the taking of deer in the city of Somersworth. Wildlife and Recreation committee. Inexpedient To Legislate. Senator Bass for the committee.

SENATOR BASS: Mr. President, the committee urges your adoption of the report of Inexpedient to Legislate.

Committee Report Adopted.

**HB 703-FN**, an act relative to the negligent discharge of firearms. Wildlife and Recreation committee. Ought To Pass. Senator Cohen for the committee.

SENATOR COHEN: The committee voted and recommends Ought To Pass on this. It was at the request of the Department of Fish and Game. It simply expands the revocation period from three years up to ten years to provide more of a deterrent.

Adopted.

Ordered To Third Reading.

**RESOLUTION**

Senator Delahunty moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

**RESOLUTION**

Senator Delahunty moved that the Senate be in recess until Tuesday, April 9, 1991 at 1:00 p.m., for the sole purpose of introducing legislation, referring bills, to committee, and scheduling hearings.

Adopted.

**LATE SESSION****Third Reading And Final Passage**

**HB 106-FN**, an act establishing a committee to study the feasibility of an enhanced statewide uniform emergency 911 telephone system.

**HB 121-FN**, relative to limiting the mode of taking deer in Dover, Rollinsford and Somersworth.

**HB 132-FN**, an act reclassifying portions of certain highways in the town of Sandwich.

**HB 138-FN**, an act relative to spousal support.

**HB 167-FN**, an act relative to airman certificates and fees.

**HB 174**, an act relative to the appointment of a deputy town clerk by the elected town clerk.

**HB 175-FN**, an act relative to the hunting of pheasants.

**HB 180-FN**, to establish a study committee to evaluate whether a consortium of all law libraries within the state of New Hampshire is economically feasible and practical.

**HB 202-FN**, to extend the time period within which a corporation may reinstate its charter, relative to revival of charters of voluntary corporations, and reviving certain charters.

**HB 213-FN**, an act relative to rates set for medicaid and the administrative procedure act.

**HB 240**, an act relative to the disposition of the Kona Wildlife Management Area.

**HB 253-FN**, an act naming a certain segment of US route 202 the General Isaac Davis White highway.



**HB 288-FN**, an act establishing a study committee on premature births.

**HB 290-FN**, an act relative to the sale of hunting licenses.

**HB 319-FN**, an act establishing a committee on access to health care.

**HB 325-FN**, relative to reciprocity of dog training and restricting the use of telemetry equipment.

**HB 333**, an act relative to notification of insurance cancellation.

**HB 402**, an act relative to placing lime and wood ash on farmland.

**HB 414**, an act relative to unfair claim settlement practice.

**HB 459**, an act relative to notice received by the wetlands board from local conservation commissions.

**HB 491**, an act relative to the collection of the normal yield tax in unincorporated towns and unorganized places.

**HB 531-FN**, an act relative to personal care for the severely physically disabled.

**HB 656-FN**, an act relative to criminal mischief.

**HB 703-FN**, an act relative to the negligent discharge of firearms.

**HB 707-FN**, relative to contracts for stenographic and clerical services for indigent defense.

**HB 711-FN**, an act extending the reporting date for the committee to study child care in public and private sector buildings.

**HB 715-FN**, an act relative to the right to jury trial in civil cases.

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

**HB 202**, to extend the time period within which a corporation may reinstate its charter, relative to revival of charters of voluntary corporations, and reviving certain charters.

Senator Currier moved adoption.

Adopted.

Senator Delahunty moved that we recess.

Adopted.

Recess.

Out of Recess.

**RESOLUTION**

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 9, 1991 at 1:00 p.m.

Adopted.

Senator Delahunty moved to adjourn.

Adopted.

Adjournment.

*April 9, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, the outlook looks varied from now on! Taxes; Civil Rights Day; Bond Rating; Manure bill, plenty of that around! Hey, lets get together before No One Wins! Cool heads, in the spirit of real cooperation overcomes many difficulties. Bless us Lord, we need your help!*

*Amen.*

Sen. McLane led the Pledge of Allegiance.

**ANNOUNCEMENTS**

**PRESIDENT DUPONT:** Prior to starting our calendar for today, given the fact that this is the budget week for the House, I thought it appropriate that I just make a few quick remarks. And if I could have the indulgence of the Senate, I would like to start off by just reminding the Senators that by next week we will have in our possession, the House Budget. I think there is no question that given what's gone on in the House, the difficulty that they have had, that there will be many looking to the Senate for some sanity in the process. It is my hope and my expectation and what I have been telling everyone that I've spoken to, that this Senate, although diverse, will be able to live up to the committment we all made to our constituents to come over here and solve problems. And certainly, as I look at this session, the biggest responsibility that we are all going to bear, is trying to resolve the state's financial problems. That is a problem which deserves our best attention and our greatest effort.



And although I'm not going to and don't want to dictate solutions, what I am looking for, is for all of the members of the Senate to participate in the process, to work responsibility with Senate Finance, so that we ultimately can demonstrate to the people of the state that the Senate has been willing and able to demonstrate some leadership in trying to fix the problems that face us as a state. So for those that are observers of the process this week, it shall be an interesting one in terms of watching the House. My expectations are that the Senate is going to have its work cut-out, regardless of what comes over from the House, but I just wanted to make everybody aware that that will be our next challenge, and I'm looking for all of you to help us with this next problem and I offer my assistance to Finance and we've already had some initial discussions about where we ought to be going, but there is no doubt in my mind that this Senate will be able and willing to work to resolve these budget issues that will be before us very shortly. So this is the start of our last two months and our hopefully, the most difficult time, but the one that provides the most opportunity.

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled Bill and Resolution sent down from the Senate:

HB 202-FN, to extend the time period within which a corporation may reinstate its charter, relative to revival of charters of voluntary corporations, and reviving certain charters.

Adopted.

### NOTICE OF RECONSIDERATION

Senator Disnard served notice of reconsideration of HB 325, relative to reciprocity of dog training and restricting the use of telemetry equipment.

### COMMITTEE REPORTS

**HB 103**, an act relative to the time period for perfection of a purchase money security interest under the uniform commercial code. Banks committee. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** This changes the time period for perfection of a purchase order, money security interest from ten days to twenty days. Thirty other states have the 20 day period as part of the uniform commercial code. Presently, they must file with the local town

clerk, and with the secretary of state to perfect a loan, and if it's late in either location, they must go through a long process to assure that this is correct. Vermont, Maine, New York, have this 20 day period and it seemed a good thing to do.

SENATOR COLANTUONO: A simple question. Was there any opposition to the bill from banks, or any other secured party?

SENATOR MCLANE: No, there wasn't.

SENATOR COLANTUONO: Thank you.

Adopted.

Ordered To Third Reading.

**HB 185**, an act relative to certain security transactions exempted from registration. Banks committee. Ought To Pass. Senator Delahunty for the committee.

SENATOR DELAHUNTY: This bill does exactly what the analysis says it's going to do. It clarifies language for transactions exempted from registration and it was recommended and submitted on behalf of the Department of Securities and Registration.

Adopted.

Ordered To Third Reading.

**HB 186**, an act relative to isolated sales of securities. Banks committee. Ought To Pass. Senator McLane for the committee.

SENATOR MCLANE: This bill was requested by the office of Securities Regulations. It defines the definitions of exemptions from registration. Registration is a consumer protection measure and is revenue for the state and it involves full disclosure.

Adopted.

Ordered To Third Reading.

**SB 60-A**, an act relative to the Laconia - I-93 connector highway and making an appropriation therefor. Capital Budget. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill has been amended. The amendment is on page nine in the calendar. It simply establishes a task force to study the Laconia connector highway. The task force will attempt to find federal funding and the task force members will consist of three members of the Senate, three members of the House, and three public members. One from Tilton, and two from Laconia.



**Amendment to SB 60-A**

Amend the title of the bill by replacing it with the following:

**AN ACT**

creating a task force to study the Laconia-I-93 connector highway.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established; Duties. There is hereby established a task force to study the Laconia - I-93 connector highway. The task force shall work with New Hampshire's congressional delegation to seek ways to obtain federal demonstration funding for the Laconia - I-93 connector highway. The task force shall also work with all municipalities which would be affected by the Laconia - I-93 connector highway.

2 Membership. The committee members shall be as follows:

I. Three members of the senate, one of whom shall be from district 4 and shall be chairman, and 2 of whom shall be appointed by the president of the senate.

II. Three members of the house of representatives, appointed by the speaker of the house.

III. Three members of the public, appointed by the governor; one of whom shall be from Tilton and 2 of whom shall be from Laconia.

Amendment Adopted.

Ordered To Third Reading.

**HB 153-FN**, an act to regulate the handling of manure, agricultural compost and chemical fertilizers. Environment committee. Ought To Pass. Senator Russman for the committee.

SENATOR RUSSMAN: That's alright, you know that when you want a dirty job done, that you come to me. I have to tell you that this bill smells good to me, and I'm sure that many of you probably know more about this subject than I do. But I must tell you that, basically, it develops the best management practices for all kinds of manure products, agricultural, and the other thing . . . More importantly, I must tell you that I have been told to cut the B.S. because I've got the votes.

Adopted.

Ordered To Third Reading.

**HB 270-FN**, an act relative to filling and dredging in wetlands. Environment committee. Ought To Pass. Senator Russman for the committee.

SENATOR RUSSMAN: The purpose of this bill is to have all applications come out of one place, basically the town Clerks Office. It's the measure supported by the town Clerk, and it raises their fee from \$2 to \$10 essentially in terms of handling that, plus the postage that it cost to get the actual notice to the various abutters. The town Clerk's Association supported it, and the Association of Conservation Districts and Commissions and no one spoke against the bill at the public hearing. I urge your support of the bill.

Adopted.

Ordered To Third Reading.

Senator Disnard in opposition to HB 270-FN.

**HB 352-FN**, an act relative to the oil discharge and disposal cleanup fund.

Environment committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, 352 amends the current RSA 146D, by changing the definition of oil so that more people could be eligible to receive funds for the cleanup in the leakage from storage tanks. The bill also changes the fee schedule, I mean the permit schedule, 2 1/2 cents per barrel for fuel being brought into the state to 100th of a cent per gallon. The bill further allows the Oil Fund Disbursement Board to appoint legal counsel with the approval of Governor and Council to assist in it's duties. The board is a test of Environmental services. It has no staff, but on occasion it does need legal advice to evaluate claims. The oil industry, Mr. President, supported this bill, and we urge its passage.

### **Amendment to HB 352-FN**

Amend the bill by inserting after section 4 the following and re-numbering the original section 5 to read as 6:

5 Fee Changed. Amend RSA 146-A:11-b, II to read as follows:

II. Any operator, distributor, dealer, or broker who or any wholesale terminal facility which imports or causes to be imported oil into the state, except those using oil pipelines, railroads, and highways to transport oil products between states other than New Hampshire or for international transport of oil products, shall be licensed under this chapter. The annual fee for the license shall be [\$.025] **\$.001** per [barrel] **gallon** of oil which shall be assessed at the time of sale. The



fee shall be paid monthly by the licensee to the department of safety and then deposited by the department of safety into the oil pollution control fund administered by the division of water supply and pollution control. Imposition of the fee shall be based on the records of the licensee and certified as accurate to the department of safety. The fee set in this paragraph shall not apply to [25 barrels] **1,000 gallons** of oil or less, when the oil is packaged in individual containers of [less than one barrel] **55 gallons or less**.

### AMENDED ANALYSIS

The bill redefines oil for the purposes of the oil discharge and disposal cleanup fund. The bill also clarifies what expenses are eligible for reimbursement through the fund.

This bill allows the oil fund disbursement board to employ legal counsel, with the approval of governor and council, to assist it in its duties.

In addition, this bill changes the annual fee for a license from \$.025 per barrel to \$.001 per gallon.

Amendment Adopted.

Ordered To Third Reading.

**HB 356-FN**, an act relative to uniform penalties pertaining to farm products. Environment committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill addresses amendments to several RSA's which involve violation of farm products, such as egg, maple syrup, honey, fertilizers, liming materials, potatoes, apples, grains, commercial feed and the like. All the bill does, Mr. President, is change to make uniform in standard the penalties for violations for these various acts as well as standardizations for the hearing process. We urge its passage.

Adopted.

Ordered To Third Reading.

**HB 565-FN**, an act relative to marine oil spill response, oil spillage in surface waters or groundwaters and underground storage tanks. Environment committee. Ought To Pass. Senator W. King for the committee.

SENATOR W. KING: This bill is designed to clarify existing laws dealing with oil spills. There are some provisions within the bill that make it clear that those parties who caused an oil spill are liable for the cost of the removal and the cleanup and other necessary mea-

asures that need to be taken. The bill closes a loophole in the existing law, which would allow those who spill the oil to argue that because they helped in the cleanup, that they are no longer liable. New Hampshire existing good samaritan law is improved to insure that those parties that are engaged in the cleanup of a spill, that is caused by someone else, are not liable for the cleanup cost. The bill also allows oil spill responders to go to work immediately. Currently, under the federal guidelines, and the state guidelines, they have to contact the Department of Environmental Services, so if it's over the weekend, it might be very difficult for them to do that, and consequently, they are not able to go to work immediately. But this bill would give them the opportunity to go to work immediately. Nobody testified in opposition to this bill, and the Department of Environmental Services, the Attorney General's Office, Oil Spill Responders, and Environmental Groups all supported it.

Adopted.

Ordered To Third Reading.

**HB 117-FN**, an act relative to housekeeping changes in the weights and measures laws. Executive Departments committee. Ought To Pass. Senator Pressly for the committee.

SENATOR PRESSLY: Just as this bill in the analysis, it makes technical changes in the weights and measures law. It will allow them to be more consistent in their function, and it will bring them in line with federal standards. It means that what had been tested every five years, will now be done every year. There will be rulemaking procedures that will be consistent with federal standards. The committee recommendation was Ought to Pass.

Adopted.

Ordered To Third Reading.

**HB 162-FN**, an act extending the committee studying a statewide trauma care system. Executive Departments committee. Ought To Pass. Senator Currier for the committee.

SENATOR CARRIER: This bill basically, reinstitutes the study committee that was established in the last session of the legislature to explore the possibilities of the implementation of a statewide trauma care system for the state of New Hampshire. There was a number of pieces of legislation, some of which have made it through this session of the legislature, and others that didn't, regarding trauma care systems and development of trauma systems, and there is a need to continue on this work. There was no opposition to the committee, at the committee hearing, and I would urge the full Senate to pass this on forward.



Adopted.

Ordered To Third Reading.

**HB 597-FN**, an act relative to licensing of nurses. Executive Departments committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: What this bill does, Mr. President, is allows candidates for the original certificate of graduate practical nurse, who have completed the required number of classroom hours to take the LP exam, if for any reason they cannot continue their education. The second portion of the bill, addresses first time applicants who are graduates of approved programs in another state. This bill would allow temporary licenses under designated licensing examines until such time as they received them. The license is issued by the state of New Hampshire. It also allows a person who has comparable comprol nursing educational preparations recognized by the board to also receive a temporary license. During the time period between completion of qualifying education, and the issuance of a license by any state board, the practice would, this practice would be restricted to working under supervision of a registered nurse. Mr. President, the bill also allows the Board of Registration to establish fees for temporary licenses, examination of verification to other states. The last part of the bill, allows the board to take action against a nurse who practices during the time a licensure is either lapsed or inactive. The committee urges passage of this bill, Mr. President.

SENATOR DISNARD: Senator Fraser, I noticed the fee for this bill increases \$11,000, almost \$50,000, close to \$80,000. Is that because it's a new type of license for temporary, or are we increasing the fee cost to the nurses?

SENATOR FRASER: We are increasing the fee cost to the nurses future.

SENATOR DISNARD: Future, does this bill increase the cost of the nurses in the future?

SENATOR FRASER: Does it increase the fee structure? The answer is yes.

SENATOR DISNARD: You said, would you believe, I heard you say, that in the future, the increase is the cost for nurses. I don't see an increase of cost to the girls, I'm just wondering what happens if the rules committee, would you believe, that I want to . . . there may be a problem if the rules committee does not agree or if legislation passes this body this year, the legislature that the rules of any department must be approved by the legislative body. I'm just kind of concerned, we may be guaranteeing fee increases, but we don't know what those fee increases might be.

Recess.

Out of recess.

SENATOR DISNARD: Thank you Mr. President, I appreciate the time and explanation. It's a recodification of the law. The old law indicated that the nursing board must raise 125 percent of it's fees. And last year this was left out of the recodification, so it just addresses that area, and I appreciate the help.

Adopted.

Ordered To Third Reading.

**HB 490-FN**, an act relative to continuation of state health and dental insurance benefits for state employees called for active duty as a result of Operation Desert Storm. Insurance committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: Yes, this bill was offered in response to the, trying to meet the idea of where (CHAMPUS) military insurance would take over and the insurance that the state employee would have at the time, and work out whatever problems they may have, and also, as a matter of convenience for state employees. We checked with Colonel Riley, for the New Hampshire National Guard, and he felt it was O.K. So we put in "were appropriate", and so we would urge passage of this bill in helping those people who have served in operation desert storm, or desert shield.

### **Amendment to HB 490-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to continuation of state health and dental insurance  
benefits for state employees called for active duty  
between August 2, 1990, and March 15, 1991.

Amend the bill by replacing section 1 with the following:

1 Health and Dental Insurance Benefits; State Employees Called to Active Duty. Any full-time state employee who was a member of the reserve component of the United States and was called to active duty between August 2, 1990, and March 15, 1991, shall continue to receive individual and, if applicable, spousal and family state-paid health and dental insurance benefits for a period not to exceed 6 months following the date the employee was called to active duty.



**AMENDED ANALYSIS**

This bill allows a full-time state employee who was a member of a military reserve unit and was called for active duty between August 2, 1990, and March 15, 1991, to continue to receive state-paid health and dental insurance benefits for 6 months.

Amendment Adopted.

Ordered To Third Reading.

**HB 768-FN**, an act relative to technical changes in the unemployment compensation law and to changes in the maximum weekly benefits. Insurance committee. Ought To Pass. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The committee on Insurance unanimously finds that this bill Ought to Pass. This bill is relative to technical changes in the unemployment compensation law and to changes in the maximum weekly benefits. It also deals with what was happening at our state prisons, with the employees. The state prisoners who were out on work release, and their employer was paying federal unemployment taxes. They also discuss what happens with real estate brokers and salesmen and clarifies the circumstances, then Underwood Service Base, may be excluded for coverage. It deals with the timely postmarking of filings, due to the slowdown in the postal department. And it deals with the employees contribution rate, which is relocated under the state for the standing contribution rate is required by the federal unemployment act. And I think that pretty much addresses, other than the building under control of the Department of Unemployment that allows for local administration and lease purchase permits. We urge that this bill Ought to Pass.

Referred To Finance (Rule #24).

**HB 685-FN**, an act relative to fiscal notes. Internal Affairs. Ought To Pass. Senator Delahunty for the committee.

**SENATOR DELAHUNTY:** This bill changes the requirements for seven categories for fiscal notes on certain bills and resolutions and actually lists seven categories. Potential categories for exemption from fiscal notes. And the bill has an awful lot of merit and there are a lot of good points to it, but it also has a couple of issues of concern, and out of respect and consideration to my fellow colleagues, mostly the opposite party, I am going to move to table it, to give them more time to study it, Senator.

Senator Currier moved to have HB 685-FN, Laid On The Table

HB 685-FN, is LAID ON THE TABLE.

**HB 436-FN**, an act making the purchase, possession and control of child pornography a misdemeanor. Judiciary committee. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: HB 436, deals with child pornography. It makes the purchase, possession, and control of child pornography a misdemeanor. Currently, this is not a crime. This legislation would allow an arrest in prosecution on misdemeanor charges. The bill is modeled after an Ohio statute, which was upheld by the United States Supreme Court in April of 1990. The issue before the court at that time, was whether or not the state could regulate the mere possession of pornography, and make it a crime. The Supreme Court came back and said that the state has not only the right, but the obligation to protect children from exploitation and it had every right to pass such legislation. It was James McLaughlin, of the Keene Police, who recognized a loophole in the law. He did a lot of undercover work, investigated, and discovered, an incredible amount of child pornographic material in New Hampshire, and they could in no way prosecute. He told the committee that recently an 84 year old man had 600 movies in his home on four and five year old children. He had other people coming and copying these films. Last year in Keene alone, there were six pornographic pornography cases. This bill is constitutional, it's another tool that will help our efforts to protect children from exploitation, and the committee urges Ought to Pass. This is an important bill, a very important bill.

SENATOR BLAISDELL: Senator Podles, it was my memory that there was quite a few cases in Manchester too. I hope that you don't get my city of Keene involved. Six cases aren't bad for us.

SENATOR PODLES: The reason why, is because it was that police officer who started this whole thing. He did the investigating, he found the loophole in the law, and he should be congratulated.

SENATOR BLAISDELL: Fine. Fine young, outstanding young man, I know that.

Adopted.

Ordered To Third Reading.

**HB 375-FN**, an act authorizing towns to accept donations of property. Public Affairs committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, I was surprised frankly, to see this bill come before Public Affairs. I'd always assumed that towns could accept donations. What this bill does though, is set into statute what has been the practice for many years, whereby towns pass enabling



legislations at towns . . . at enabling warrant at a town meeting, which allows the governing body, the selectman to accept contributions if they are given during the year. I think this bill is needed. It certainly isn't something that hasn't been done quite frequently, in many of our towns, and I urge the Senate's adoption of the committee report of Ought to Pass.

Adopted.

Ordered To Third Reading.

**HB 516-FN**, an act relative to library trustees' authority to accept gifts.

Public Affairs committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill is similar to the bill that we just heard a second ago. The difference being that it allows the trustees of a library, to accept and expend donations, if the town enables them to do so. Again, a practice which I think has been going on for years anyway, in statute where it belongs, urging the committee . . . the Senate's adoption of the committee report of Ought to Pass.

Adopted.

Ordered To Third Reading.

**HB 629-FN**, an act establishing a task force on congregate housing. Public Affairs. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 629 establishes a task force on congregate housing. This will help New Hampshire to provide more congregate housing. It's an alternative housing for our elderly and handicapped population. These elderly and handicapped have special needs calling for housing that is specifically designed for them. The committee urges passage of HB 629.

SENATOR BASS: This amendment adds two members to this committee. One from the Portsmouth Housing Authority, one from the Nashua Housing Authority to go along with the member from the Manchester Housing Authority. This amendment was agreed to by the committee in executive session, and by oversight, it was omitted from the committee report. We urge your adoption of this amendment.

SENATOR SHAHEEN: Senator Bass, can you tell me why these two particular people were added?

SENATOR BASS: Well, there are a number of Housing Authorities in New Hampshire and it was the feeling of some members of the

committee, that rather than just having one city represented, it might be a good idea to add two more.

SENATOR SHAHEEN: I certainly can understand that sentiment. I guess I have some concern about why we are adding particularly, Portsmouth and Nashua, and why we have eliminated Dover and Rochester, and any of the other places that might be added?

SENATOR BASS: Senator Shaheen, there are 65 Housing Authorities in New Hampshire. If we added them all, it would be quite a large committee. It was just the feeling of Senators Nelson and Cohen, that perhaps it was appropriate to add Nashua and Portsmouth to this committee.

SENATOR SHAHEEN: I guess I would express some reservation as someone who has a very active housing authority in the city of Dover. I don't know if this is a question to you, but it certainly, I guess I am speaking to the issue. About our singling out those two particular cities to be represented, not that I don't think they have perfectly appropriate individuals on Housing Authorities to add. I just question whether this is the way to proceed on this bill, and I certainly can not support it based on that.

Senator Bass offered a floor amendment.

#### **Floor Amendment to HB 629-FN**

Amend paragraph I of section 2 of the bill by inserting after subparagraph (g) the following new subparagraphs:

(h) The executive director, or designee, of the Portsmouth Housing Authority.

(i) The executive director, or designee, of the Nashua Housing Authority.

Floor Amendment Adopted.

Ordered To Third Reading.

Senator Shaheen in opposition to HB 629-FN.

**HB 460-FN**, an act relative to the health data advisory committee. Public Institutions, Health & Human Services. Ought To Pass With Amendment. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 460 shifts representation that they currently have on Health Data Advisory committee and allows a broader consumer perspective. It's simply making an adjustment in that particular makeup of the committee and to get a better handle on the amount of out patient work that is now being conducted in the health care industry. The amendment, adds one



member, representing county homes, and one member representing long-term care in New Hampshire, Health Care Association. The committee recommends Ought to Pass with Amendment.

**Amendment to HB 460-FN**

Amend RSA 126:25, III(a)(7) as inserted by section 1 of the bill by replacing it with the following:

(7) One member representing long term care services, who shall be from the New Hampshire Health Care Association.

Amend RSA 126:25, III(a) as inserted by section 1 of the bill by inserting after subparagraph (8) the following new subparagraph:

(9) One member representing county nursing homes.

Amendment Adopted.

Ordered To Third Reading.

**HB 478-FN**, an act relative to the emergency shelter program. Public Institutions, Health & Human Services. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 478 makes it crystal clear that the emergency shelter program, also provides support of services in addition to providing someone with a place to stay for a couple of evenings or a couple of weeks. They are provided with help in finding another job or back into a more permanent housing situation. And the bill is to make sure that the statute reflects that this program does more than just provide someone with a bed and shelter. It provides services and it also provides support. The committee urges passage of this bill.

Adopted.

Ordered To Third Reading.

**HB 481-FN**, an act allowing nursing home administrators to file for disposition of a deceased individual's estate. Public Institutions, Health & Human Services. Ought To Pass With Amendment. Senator Podles for the committee.

SENATOR PODLES: Mr. President, HB 481 allows nursing home administrators to file in probate court disposition of a deceased individual's estate if it's not more than \$2,000. This will expedite the process and alleviate some of the work loads of our county attorneys. The amendment on page eight gives the option of either going through the county attorney, or going directly to probate court, and it does this by changing the word shall to may, and it gives them those two choices. It also adds the words "with copies sent to the county attorney". We urge passage of this bill with the amendment.

**Amendment to HB 481-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT**

relative to disposition of a deceased individual's estate.

Amend the bill by replacing all after the enacting clause with the following:

1 County Attorney Deleted. Amend RSA 151-A:15, I to read as follows:

I. If 30 days after the date of a patient's death no petition for probate has yet been filed under any section of RSA 553 and the gross value of the personal property remaining at the nursing home belonging to the deceased, including any amount left in a patient account, is no more than \$2,000, the nursing home administrator [shall] **may** [give notice to the county attorney of the county in which the deceased was domiciled, who shall] file in the county probate court an affidavit, **with copies sent to the county attorney**, pursuant to RSA 553:31 or RSA 553:31-a, along with all other required filings, for the purpose of becoming a voluntary administrator and disposing of such person's estate in accordance with those sections.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

**HB 335**, an act relative to license plates for antique motor cars. Transportation committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: This bill simply allows that if you have a license plate of the year, or make of an antique automobile, that you can register that with the Department of Safety for the purposes of license plates in parades and special events.

**Amendment to HB 335**

Amend the bill by deleting section 2 and renumbering sections 3-4 to read as 2 and 3, respectively.

Amendment Adopted.

Ordered To Third Reading.



**HB 486-FN**, an act relative to collection of forfeitures of recognizances by the division of motor vehicles. Transportation committee. Ought To Pass With Amendment. Senator Heath for the committee.

**SENATOR HEATH:** This bill allows that when a person has failed to show up when he's been released on personal recognizances bail, that the court notify motor vehicles and motor vehicles sends out a notice to that person, unless that person appears in court and takes care of his problem, his license to drive will be suspended, and that's a way to help collect some fines and to reduce a number of defaulters in the court system.

### **Amendment to HB 486-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Procedure for Collection of Forfeitures of Recognizances by the Department of Safety. Amend RSA 597 by inserting after section 38 the following new section:

597:38-a Collection of Forfeitures; Motor Vehicles.

I. Whenever a party recognized to appear for any offense makes default and the recognizance is declared forfeited, the court shall send a notice of default to the division of motor vehicles. The division shall send a notice to the person owing the recognizance, demanding payment within 30 days and stating that failure to make payment within the 30-day period shall result in suspension of such person's driver's license or driving privilege until such time as the person provides proof to the department of safety that he has paid the amount of the forfeited recognizance to the court.

II. Payments of the forfeited recognizance under paragraph I shall be sent to the department of safety and deposited into a special fund, known as the DWI bench warrant fund, established in RSA 263:56-d to pay the costs of state, county and local law enforcement officials who make arrests pursuant to bench warrants issued for persons improperly at large for driving while intoxicated offenses.

2 New Section; Suspension of License and Procedure for Collection of Forfeitures of Recognizances by the Department of Safety. Amend RSA 263 by inserting after section 56-c the following new section:

263:56-d Suspension for Forfeitures of Recognizances. Notwithstanding the provisions of RSA 263:56-a, the procedure for suspension of licenses and collection of payments for forfeited recognizances for driving offenses shall be in accordance with RSA 597:38-a. Payments collected by the court under RSA 597:38-a shall be deposited into a special fund, known as the DWI bench warrant fund. The commissioner may draw on such fund to pay the cost of

state, county and local law enforcement officials who make arrests pursuant to bench warrants issued for persons improperly at large for driving while intoxicated offenses up to a maximum amount of \$100 per bench warrant. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the disbursement of moneys from the DWI bench warrant fund to pay the costs related to law enforcement officials and bench warrants.

3 New Subparagraph; DWI Bench Warrant Fund. Amend RSA 6:12, I by inserting after subparagraph (mm) the following new subparagraph:

(nn) Money received by the commissioner of safety under RSA 263:56-d, which shall be credited to the DWI bench warrant fund.

4 Effective Date. This act shall take effect January 1, 1992.

### AMENDED ANALYSIS

This bill establishes a procedure for the collection of forfeitures of recognizances for an offense by the court. It requires that persons failing to make payment for such forfeitures within a certain time period have their drivers' licenses or privileges suspended.

Money received by the commissioner of the department of safety under this bill are paid into a special DWI bench warrant fund.

The bill grants rulemaking authority to the commissioner of the department of safety relative to disbursement of moneys from the special fund for the payment of certain law enforcement costs associated with bench warrants.

Amendment Adopted.

Ordered To Third Reading.

**HB 666-FN**, an act relative to protection and control of municipal highways. Transportation committee. Ought To Pass. Senator Cohen for the committee.

SENATOR COHEN: This bill allows town selectmen to establish maximum weight limits for vehicles which are more restrictive than state standards; however, with the receipt of some additional information, I would like to re-report this back to the Transportation committee.

Senator Cohen moved to recommit HB 666-FN.

Adopted.

HB 666-FN is RECOMMITTED to the TRANSPORTATION COMMITTEE.

**HB 676-FN**, an act relative to notice of discontinuance of class IV, V, or VI highways. Transportation committee. Ought To Pass. Senator Heath for the committee.



SENATOR HEATH: With apologies to the dyslexic who had four, five, and four on here, it is four, five, and six. This simply calls for notification of all the abutters before this change is made. It's really a housekeeping bill.

Adopted.

Ordered To Third Reading.

### SPECIAL ORDER

Senator W. King moved to make HB 706-FN, an act relative to the allowable length of semi-trailers, a Special Order for April 16, 1991, at 1:01 p.m.

Adopted.

**HB 784-FN**, an act creating a long-range construction program for New Hampshire's highways and highway bridges. Transportation committee. Ought To Pass. Senator Currier for the committee.

SENATOR CURRIER: The act basically sets up in the Department of Transportation in the commissioners office, a committee that would, a process that would actually, establish a long-range planning for highways and bridges for the state of New Hampshire in a way that would make it easy to establish a tentative list of priorities for projects based on the condition, and the cost, and the repair, and the estimated valuable resources that are available. It's basically a long-range plan similar to that, that we have in existence today, but it puts it into legislation, the actual process and eliminates some of the bottlenecks that exist in the current system. And in some respect it takes some of the politics out of the process.

Referred To Capital Budget (Rule #24).

**HB 351**, an act relative to personal flotation devices for sailboards. Wildlife and Recreation committee. Ought To Pass. Senator Cohen for the committee.

SENATOR COHEN: This bill provides that persons on sailboards shall not be required to wear or have readily available personal floatation devices. We heard quite a bit of testimony on this, all in favor of this bill, almost entirely in favor of this bill, for a number of reasons that the sailboards themselves, are floatation devices. When somebody falls off of them, the sailboards generally stay put, and they can use the sailboards to stay afloat on. Personal floatation devices, it was testified that they are often in the way, and can sometimes in fact, be dangerous to the sailboarder. The problem right now, is that the sailboard is defined as a vessel, and it occurred to the committee

that it doesn't seem to really fit the definition of a vessel, and thus should be exempt from the requirement for personal flotation devices, and we recommend Ought to Pass.

SENATOR MCLANE: Mr. President, I was thinking about amending this bill, to make these people wear floatation helmets. But I figured that they would not have their nose above water at that point. I rise in strong opposition to this bill. I understand where they're coming from. They love the idea of swimming free out in the middle of lakes, and I feel that sailboarding is a very dangerous sport. I see a lot of them on Newfound Lake, there is a lot of wind on lakes. It takes a beginner a long, long time to learn to come about on a floatation device. Most people like myself, can't even stand up on the things. They're very tippy, you go quite fast, and when you fall over, you have a good chance of having the boom hit you in the head. There are other kinds of flotation devices that you can dive under, their point of view is that when you fall, that the sail can come over you, and you are unable to dive, because the floatation device . . . and get out . . . much more liable is . . . that you are exhausted from having fallen off 20 to 30 times, and that you can't pull yourself onto the board. I really feel that this is a law that has been on the books, it's proved itself, there was no evidence from the Division of Safety, that they wanted this bill in any way. It's a few young men who are good windsurfers, who want to windsurf on small lakes. Two years ago, when they brought this bill in, they said that there was no law that said you had to wear a floatation device on a windsurfer on the ocean. That has now been changed. I just feel that we are endangering a lot of young kids. Women who may not be as strong as young men, and certainly anyone who's ever learning how to windsurf, not only should they have a floatation device, but are literally endangering their lives if they do not.

SENATOR W. KING: I rise in support of choice on the matter of PFD's. I think that it really is a matter that has to be dealt with by the individual who is doing it. Most people if they feel that they are weak windsurfers or swimmers, will choose to wear a personal floatation device. There are many people who feel that it is in fact, much more dangerous for them if they wear a personal floatation device than if they don't. I think that this is a matter that should be left up to the individual. And Senator McLane, I would also add, that most of the women windsurfers that I know, are equally as strong as the men windsurfers.

SENATOR HEATH: I suspect Senator McLane, would recommend floatation boots for most people that have boats. But the fact is, that windsurfing is different. The sail lays down on the water and the



person who has a floatation device on, gets under that sail, which creates a vacuum and they could very drown because of the floatation device. There is no place on the little sailboard to store it that isn't a hazard and in the way. And in fact, most of them wear wetsuits, which are floatation devices, and the boat itself is a floatation device and it is really a hazard in this particular sport to have a personal floatation device on, and an inconvenience to have it stored someplace on the craft that it is in the way, by either wiping you off if it's on the mast, or on the boat. Both being in the way, both when you take falls and maneuvering around as you move around the board so, it made a lot of sense to remove that from that, just as it would seem to make sense to remove it from inner-tubes, but there was a person who was arrested in Moultonborough a few years ago, for not having a personal floatation device aboard an inner tube, it was 18 feet out in the water in Moultonborough.

SENATOR MCLANE: I'm sure that there is some analogy about throwing the baby out with the bath water, but why didn't they just come in and try to redefine personal floatation devices, to perhaps include wetsuits that were floatation free. I don't understand why they came in to ban it for everybody, for all windsurfers instead of making some exception, to which, they being the wonderful windsurfers, could . . . .

SENATOR HEATH: Well they didn't come in to ban it for everybody, there is no ban in here. It allows people not to use it. And at this particular sport, because of it's own particularities it seems that it is safer not to use the floatation device of the standard variety. There is in fact, a pretty good safety record in that sport that would back that up.

SENATOR MCLANE: Did anyone other than expert windsurfers come in and testify as to the danger of wearing a personal floatation device?

SENATOR HEATH: I have no way of judging the expertise of any of the people that testified. But essentially, all the testimony with the exception of the Safety Department came over and mumbled its opposition, and didn't make any kind of a real serious effort. I think they wanted uniformity of the law, and that's really their only interest. All the other testimony was either dangerous or redundant. And a lot of it centered around the dangers.

SENATOR PRESSLY: Senator McLane, in reading over this bill, I sort of have a question. Would this bill make it lawful and possible for adults who have small children with them out there on these sailboards with no requirement at all to have special . . . .

SENATOR MCLANE: I don't think it's possible really to bring, to have two people on a sailboard. In fact, I have never seen this, because you have to, it's very tippy, and you have to be able to control your own weight. But I do think that under this bill a child could learn how to windsurf without a floatation device, and I think that is very wrong.

SENATOR PRESSLY: Basically, I think that was my question. Do you see any restrictions or any mention of age at which children can . . . .

SENATOR MCLANE: I see no restrictions as to age or skill, and I really say, that if anyone has ever tried to learn how to windsurf, they know they need a floatation device in the beginning.

SENATOR RUSSMAN: Senator Heath, was there any evidence presented as to, statistically, as to how many people have died because they have drowned wearing these flotation devices under the sails?

SENATOR HEATH: I don't think, as I understand it in most jurisdictions, they do not need to wear these, and I didn't hear any, I do not recall hearing any statistics of any danger involved in terms of fatalities, either way, but I could, I would be glad if anybody else in the committee that heard the testimony, could refresh my memory. I do not remember death statistics in either direction, but I did remember a story that a person told of coming up under that and having a very panicky feeling. And in another case, trying to get below the surface as an oncoming barge in the river, not in the state of New Hampshire, was coming down the river and being able to dive below it, in which they wouldn't have done with the floatation device, they would have bobbed along in front of it.

SENATOR BASS: Mr. President, I rise in support of the committee recommendation of Ought to Pass, and in reluctant opposition to my colleague in district 15. I look to the larger picture here. We are in the process of dealing with an issue that's involved with safety with safety, and what we are proposing to do, is to make the wearing of protection, life jackets, voluntary, rather than mandatory. And as I sat through this committee hearing listening to this testimony, albeit from the professional or amateur sailboarders, the specter of having a law on the books in New Hampshire that would result in eminent peril, or the potential for that with people exercising this recreation really frightened me, and it is not, this is not a bill that would ban the use of life jackets, it would make it possible for those individuals who didn't want to wear them, not to wear them, and for those of them who did want to wear them, children and beginners if



they so chose, to do so. I would hate to be part of a process that would allow for a situation to occur in which somebody's life was truly endangered. So as a result, I really feel strongly that we should support the committee recommendation of Ought to Pass.

SENATOR MCLANE: Senator Bass, what is the difference between a sailboard and a cat boat, a small . . . I am thinking of the camps on our lake and the young kids that are in a short little boat with a sail, and when they tip over, they can be under the sail as easily as not. Why do you just confine it to sailboards?

SENATOR BASS: Well Senator McLane, I'm not familiar with a cat boat, but I think I know the example, I understand what your question is. I think that a danger may exist in what you are describing, but I don't feel that those particular boats are as prone to capsizing on a regular basis as a sailboard might be, where you actually start sailing by climbing out of the water and onto the thing and capsizing is part of the whole process. It may occur more frequently. The answer to your question perhaps is that there may be a danger in certain instances, but it happens so much less frequently with those devices, than it would with a sailboard. That the potential for a problem is more remote.

Senator Currier has moved the question.

Adopted.

SENATOR RUSSMAN: I rise in support of Senator McLane's, position really, in hope that you do not pass this particular bill. It's my understanding that the bill's been on the books for quite some time. I think it's a step backwards for New Hampshire. I think that if we look in terms of what the purpose of these laws are, they protect the exception. To protect the weak, the young, the intoxicated, if you will. Those people that might be out there on the lakes sailboarding. The inexperience and so on, and I think that as a practical matter, I'm sure that just as many people may be caught under the sail as hit by the boom perhaps, and knocked unconscious. So, I think to try to take the position that there is no point in offering that additional protection. I think that that's a mistake and I think that we know that these things capsize a great deal. We know that they can go very fast. They can go a great distance, and I think that if somebody is tired, for whatever reason, and can't get back onto the sailboard, or can't get to it because of a strong current, even though the sail may tend to act somewhat of an anchor, you run the risk of disaster. I just think that it's a good recreation, it's a good pass time, and there is not a demonstrated problem that needs to be corrected, except perhaps those avid people. So, I think that it would be remiss on our part to pass this type of legislation.

SENATOR HEATH: Senator, are you aware that you are correct? It has been on the books a long time, in fact it's been in the books longer than the existence of the sailboard. It was an overall blanket law, about all water craft. It is not anything that has been considered individually anytime in our legislative pass, until this bill.

SENATOR RUSSMAN: Yes, I am glad to hear that.

SENATOR BASS: Senator Russman, do you consider the passage of this bill to be a step backward, when in fact we are joining what 37 other states have done in the past few years? Is that a step backward or a step forward in your opinion?

SENATOR RUSSMAN: I think in terms of New Hampshire, I think it's clearly a step backwards, and the mere fact that other states do certain things, I think we have long been doing our own thing. And I think in most instances, the correct thing and I hope that we continue to do that.

Recess.

Out of recess.

Division vote.

Yeas: 13

Nays: 8

Ought To Pass Motion Is Adopted.

Ordered To Third Reading.

**HB 364-FN**, an act relative to the opening and closing of deer season. Wildlife and Recreation committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: HB 364 amends the current law so that the executive director of Fish and Game, with the consent of the commission, has the authority to open and close the deer season for all years through 1997, plus the opening of the deer season for the year 1998. Part two of the bill, requires the executive director to submit a report annually to the House and Senate committees on the condition of the deer herd, the preceding years' deer harvest, and the general status of the herd. Mr. President, we urge passage of HB 364.

#### Amendment to HB 364-FN

Amend RSA 208:2, as inserted by section 1 of the bill to read as follows:

208:2 Executive Director Controls Taking, Time, and Conditions.

I. The executive director, after consulting with the commission, shall have the authority to open and close the seasons for the taking of wild deer, to fix the number and sex limitations for wild deer, and



any other conditions governing the methods and manner of taking and reporting of the same, subject to the conditions specified in RSA 208:3, 3-a, 3-b, 3-c, 4, 6-a and 7. The authority of the executive director as granted by this section shall be exercised with reference to the state as a whole or for any specified county or part thereof, and shall expire on December 31, 1997, except that such authority shall permit the executive director, after consulting with the commission, to set the opening date of the regular deer season for 1998. All rules adopted by the executive director shall be in accordance with RSA 541-A.

II. The executive director shall submit a report annually to the house and senate committee with subject matter jurisdiction over the department of fish and game on the condition of the deer herd, the preceding year's deer harvest, and the general status of the herd.

### AMENDED ANALYSIS

This bill authorizes the executive director of the department of fish and game to open and close the seasons for the taking of wild deer until December 31, 1997.

This bill also requires the executive director to report annually to the general court on the status of the deer herd.

Amendment Adopted.

Ordered To Third Reading.

**HB 555**, an act limiting horsepower on Big Pea Porridge Pond. Wildlife and Recreation committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: Big Pea Porridge Pond, Mr. President, back in 1986 the General Court adopted a bill, made into law, eliminating the use of internal combustion engines totally on Big Pea Porridge Pond. In 1989 when the water laws were being recodified, inadvertently, the Big Pea Porridge Pond bill that was adopted restricting the use of internal combustion engines in excess of 10 horsepower. What 555 does, is to restore to what was the law that was adopted by the General Court in 1986, namely to eliminate, disallow the use of internal combustion engines for any purpose on Big Pea Porridge Pond.

Adopted.

Ordered To Third Reading.

**HB 578**, an act establishing an advisory committee on Governors State Park in Laconia. Ought To Pass With Amendment. Wildlife and Recreation. Senator Fraser for the committee.

SENATOR FRASER: There is an area in Laconia, designated as Governor's State Park. This bill establishes an advisory committee to work with the Department of Resources and Economic Development on the development of this state park. The amendment that appears on page 12, revises the competition, composition of the committee, changes that were agreed to by the House Resources, Recreation and Development committee. The major change is replacing the commission of Resources and Economic Development with the director of Parks and Recreation, the commissioner of Fish and Game with the executive director of Fish and Game. Mr. President, the agencies that are involved with this piece of legislation, appeared in favor of this legislation, we urge its passage.

SENATOR SHAHEEN: Senator Fraser, where is Governor's State Park?

SENATOR FRASER: Well as I understand it, it's almost parallel to what is now the Laconia state school property. It, I can give you, I have it here, how it's described in the law. The Laconia development service located in the city of Laconia with a shoreline of approximately 3500 feet on Lake Winnisquam is one such tract which is owned by the state and deemed to be a natural resource that should be preserved for the enjoyment and the benefits of the citizens. And as I understand it, it's someplace just west of what is the Laconia state school, I'm not sure of the exact location.

SENATOR SHAHEEN: Is it on, is part of what used to be the Laconia state school property? Is it part of that?

SENATOR FRASER: I don't think so. That is still intact. We'll hear more about that in the future.

SENATOR COLANTUONO: Senator Fraser, the land in question here, would it make a good site for a prison?

SENATOR FRASER: I don't know.

### **Amendment to HB 578**

Amend RSA 216-H:5 as inserted by section 1 of the bill by replacing it with the following:

216-H:5 Governors State Park Advisory Committee.

I. There is established an advisory committee to advise the department of resources and economic development on the development of Governors state park.

II. The committee shall consist of the following:

(a) The director of the division of parks and recreation, department of resources and economic development or designee.



(b) The executive director of the department of fish and game or designee.

(c) Representatives of the following organizations, appointed by the governor:

- (1) One elected public official from the town of Belmont.
- (2) One elected public official from the town of Sanbornton.
- (3) One elected public official from the town of Meredith.
- (4) One elected public official from the town of Tilton.
- (5) One elected public official from the city of Laconia.
- (6) 2 members of lakes associations.
- (7) One member of a regional planning group.
- (8) One member of the Laconia/Weirs business community.

III. The governor shall select a chairperson from the above 11 members.

IV. The division of parks and recreation, department of resources and economic development shall provide administrative support to the committee. All state agencies are directed to cooperate fully and promptly with any request for information from the committee.

V. Meetings shall be at the call of the chairperson.

Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

## ANNOUNCEMENTS

SENATOR HOUGH (RULE #44): Thank you, Mr. President, and members. I rise under the provisions of rule 44 to address this body in terms of a memorial. I wish the members of the New Hampshire Senate to recognize the passing of John Sloan Dickey, the late President of Dartmouth College. Senator's Bass, a proud man of Dartmouth, and Senator McLane, will undoubtedly also wish to address this body, in regard to President Dickey's passing. President Dickey lead Dartmouth College from 1945 to 1969 as its President. As a young man in the Hanover, Lebanon area, I remember the college as a small regional college, the way to arrive in Hanover was up the Connecticut river on the railroad, there were no interstates. It was John Dickey, after the second world war who arrived in Hanover, after being instrumental in the establishment of the league of nations, that brought to the college an international flavor with the great issues programs, where we would see people such as Dag Hammerskjold on the village streets. It was John Dickey whose insight and strong leadership of the nation and in education in the

nation who brought forth the resources of Dartmouth's son, Nelson Rockefeller that endowed us with a Hopkins Center for the humanities and the performing arts. John Dickey was big man in every sense of the word. He was a big man who wore a flannel shirt, he was at home in the wilderness. To the local kids, he was that tall man with a crumpled fedora that stood on the sidelines of the Dartmouth football field and was instrumental in bringing together the ivy league as an athletic conference as we now know it. He was truly an international man. He was a national figure, he was one of the more, the proudest New Hampshire citizen, and his passage does not go unnoticed. In conclusion, I defer to my colleague, Senator McLane, who the daughter of Dean Neidlinger, another large man who enjoyed the glories of the grid iron, served as Dean of the college under President Dickey. I am pleased to be able to co-sponsor a concurrent resolution that was drafted by Senator McLane's brother-in-law, Doctor David Bradley, and will be co-sponsored by the members of the Hanover delegation of the House, memorial of this uncommon and big man.

### RESOLUTION

SENATOR MCLANE: Whereas John Sloan Dickey Dartmouth's great president from 1945 to 1969, recently died in Hanover; and

Whereas it was our good fortune to have such a leader in education looking out for the young people of this state and nation.

No simple task, let us reflect. As he said to the graduating seniors of 1956 and their parents:

"You know that life has never made complete sense to any thoughtful person, and yet it makes too much sense to either be left to chance, or fools, Hence education."

World War II and his work in the creation of the United Nations convinced him that our lives are now inescapably international. He broadened the College's perspectives, brought in foreign teachers and students, made a place for Black Americans, and created his famous Great Issues course.

To the new veterans of 1947 he said what we, three wars later should now be saying:

The wartime issue, however complex in its origins was starkly simple: It was 'we or they' and to the finish. The issues of peacetime are different. They are numerous, complex, and ill-defined . . . , the business of the truly educated man; it is a harder business than you can imagine.

Mr. Dickey was a big man in all respects. He peopled his college with the best students and teachers he could find. Yet, he knew that the excitement of scholarship in library or laboratory must be balanced by the fellowship of football or fishing, or exploring in the



wilderness of thought. For him such recreation often meant snowshoeing with his wife or hunting with his old friend Robert Frost (a poor shot, but a deadeye poet). Perhaps the happiest event of his 24 year tenure was taking President Eisenhower and Governor Sherman Adams on a fishing trip to the (well stocked) rivers of the Dartmouth Grant.

Therefore be it Resolved, that we congratulate Dartmouth College (an institution older than the state of New Hampshire), on having had, for a quarter of century, such a man for President;

That we send to his wife and family our deepest sympathy; and that we ourselves resolve to do what we can for our young people to keep their talents and prospects from the hands of fools or chance.

Adopted.

SENATOR BASS: Mr. President, I would just like to have it, have the record show that as a graduate of Dartmouth myself, and having come from a family whose first member went to Dartmouth in 18, in the mid 19th century, John Sloan Dickey was certainly an institution and critical to the development of the college through the mid 20th century, and we very much regret his passing, but recognize the fact that his contribution will live on as long as the college does.

SENATOR SHAHEEN (RULE #44): I would like to point out to members of this Senate for those of you who might have missed the front page article in the Union Leader last week. It outlined concerns that were raised by the Environmental Protection Agency relative to the proposed plan for Pease Air Force Base and I thought it was particularly ironic that this came out a week after we debated SB 137. I have here the 15 page statement that the EPA issued relative to Pease, in which they raised many of the same issues that we talked about on the floor in debating 137 and which have been raised by citizens of the area since the report was first proposed last summer. I have taken the liberty of sending out a copy of the release on the statement that the EPA sent out to each of you, you should find that in your offices today. I think one of the things that we did in killing SB 137, was to say that because we had assurances from the Pease Development Authority to make sure that they involved citizens in issues such as traffic and noise, that they . . . we had assurance from them to open up the process. That the Senate felt reassured that we didn't need that legislation. The legislation that actually created the Pease Development Authority has made them accountable to no one but the legislature. So I believe that it is incumbent on us to continue to monitor what the PDA does, and to make sure that the issues that are raised by citizens in the area are addressed. Because if we don't, the EPA as we have seen in the past

in terms of what has happened with route 101, what's happened with proposals to expand the pier in Portsmouth. We'll make sure that that project is stopped cold. I believe that the future of Pease depends on our ability to address those concerns and to make sure that that project goes forward at this time when it's so critical that we continue the development at Pease, and I urge you to join me in that effort of monitoring the PDA.

SENATOR COHEN (RULE #44): I would just like to make a personal announcement of my engagement to be married at the end of August, at Odione Point in Rye, New Hampshire.

SENATOR DISNARD (RULE #44): All of you are aware that this is going to be a big occasion all is invited. The Democrats hope that our colleagues will not decide to go to a baseball game in Boston, but will decide to come across the street and enjoy good cheer with us. We hope that you will attend.

SENATOR MCLANE: I have a question about rule #44. And that is if Senator Russman has any thoughts on his 44th birthday? Forty-four . . .

Recess.

Out of recess.

### HOUSE MESSAGE

The House of Representatives has passed a bill with the following title in the passage of which it asks the concurrence of the Senate:

HB 53-FN-A, establishing a continually appropriated state park fund and a ski area funding mechanism.

### RESOLUTION

Senator Hough moved that it be Resolved, that in accordance with the list in the possession of the Clerk, House Bill numbered 53-FN-A, establishing a continually appropriated state park fund and a ski area funding mechanism, shall be by the therein listed title, and referred to the therein designated committee. Finance committee.

Adopted.

### RESOLUTION

Senator Hough moves that the rules of the Senate be so far suspended as to dispense with the reference to committee, the holding of a hearing and the notice of the report in the calendar, and that HB 53-FN-A be on a second reading, and open to amendment at the present time.



Adopted.

SENATOR HOUGH: I rise in passage of HB 53-FN-A as we have received from the House within the last few minutes and in support of the motion for passage, final passage under third reading. I would tell you this in preface to my remarks. Saturday morning, Senator's Disnard and I, awoke to read the Banner headlines in the Valley News, that the House actions were to close Sunapee State Park as of July 1. As we all realize we had an exceptionally fine Saturday and Sunday, unfortunately, Senator Disnard and myself, found it impossible to leave our telephones and get outdoors and start our spring clean-up. The phones rang off the wall, the newspapers, the radio stations, and more importantly, all through Sunday and yesterday and right through until today, members in the Dartmouth, Lake Sunapee region that are in the vacation, tourism, recreation business, became very alarmed by the inaction of the House in their drafting of HB 25, the appropriation bill. Senator Disnard and I are continuing to work with the people in the recreation, vacation, and travel business in our area. This morning when we arrived at the State House, we began to work with HB 53-FN that has been passed and sent over from the House today. The legislation that is before us should be passed and it should be passed today and sent to the Governor. Regardless of what the House may or may not do in regard to July 1 with the summer season at Sunapee, this legislation brings to fruition a number of years of work which establishes the state ski operations. It allows the Franconia or Cannon Mountain, Sunapee facilities to operate both in the summer and in the winter on the basis of the revenue that they anticipate receiving. Further it brings to conclusion the establishment of a state park fund for our service parks, service parks being the distinction between Cannon and Sunapee, all the other state parks facilities and allow them to operate within revenue. Clearly, the state of New Hampshire is not going to go forward on July 1 and not maintain the operations of Mount Sunapee state park. But you must realize that there is a tremendous degree of anxiety, concern, and business, disruption in an otherwise down turn in the economy. There are food establishments that are concerned with renewing liquor licenses, preparing for promotional advertisement, and gearing up for the summer business in the Dartmouth Lake Sunapee area. Clearly, this legislature has to take a swift and decisive and affirmative action that will allow the businesses in this area to know that we do in fact intend to maintain the operations after July 1. HB 50 appropriated money and you voted for it a month ago. That allowed for the operations to continue through June 30 at Franconia and Sunapee, and some of those supplemental appropriations will allow them to prepare themselves for

the opening of the summer season in the month of June, and this legislation will allow them to move forward on July and complete the summer season, hopefully through the fall season and in turn allow them to prepare for next years winter season which has been addressed by the House in HB 25. This legislation has been in the works, it is the culmination of work that was entered into by the late Representative Weymouth, and Senator Dupont, three or four years ago. It was the final piece in a total package that will allow for the operation of the state owned ski areas to be done in a business environment and to allow them to smooth over the extreme peaks and valley's in the ski industry seasons and to extend them over a recognized period of five-years so that they can maintain themselves in a competitive mode with the other parts of the industry and will allow them in the strong years to continue to generate funds to the general fund in support of general government in the state of New Hampshire. It is critically important that we address this legislation and to send a clear signal as we approach the summer season not only to this area, but to the parks system across the state of New Hampshire. And the message should go forth, that yes, the state of New Hampshire is open for business and it will remain open for business on July 1, and that the people in the Northeast can continue to come to the state of New Hampshire and receive the types of unique outdoor recreation that they have historically enjoyed and that they can look forward to more professionally managed and upgraded facilities in the future. I would be happy to answer questions to the extent that I can, and should I not be able to answer questions, we will provide you with the information that you require and I would be most happy to defer to Senator Disnard, who has worked with me on this if that would be your choice. Support this legislation, support suspension of the rules, pass it out of here. Send a clear signal not only to the people of New Hampshire that are engaged in the tourism business, but to the people of the Northeast, that as of July 1 New Hampshire is still open for business.

SENATOR HOLLINGWORTH: I noticed that there is no fiscal impact on the back of the bill, could you please explain to me, why there is not?

SENATOR HOUGH: I may be looking at a different document than you are. The fiscal note is on page four. I believe you are referring to where it says the Department of Resources and Economic Development has determined that this bill will have no impact on state, county, or local revenues or expenditures. The fiscal impact statement is typical of most of them, Beverly, it will allow the park systems and the ski operations to operate within revenue. So it will not require appropriations to the state funds. As far as local and county



revenues and expenditures are concerned, failure to pass this bill will have a very definite impact on the revenues, both on the local, regional, and state level in terms of the revenues gained from tourism business.

SENATOR HOLLINGWORTH: I noticed that this bill, and I haven't had a chance to read it because we just received it. This bill also requires that the closing of each fiscal year, the balance of all funds from the beach parking facilities fund at Hampton Beach shall be left to the state park fund. Where do they go now?

SENATOR HOUGH: That language there, and I'll stand to be corrected, but I believe this is the situation; this the Hampton parking meters that are used to maintain the lifeguards at Hampton Beach. Because you are establishing a State Park Fund, you don't need this language, because the revenues from the beach facilities will go into the fund for the general operation of the park.

SENATOR HOLLINGWORTH: To my knowledge, Senator Hough, that is not quite the case. All the money from the parking meter revenues, parking spaces, etc. in the past, went into the general fund, a portion of it, and a portion of it went into paying for the seawall and other things that needed, that we had bonded over the years to be completed at Hampton Beach. So that I don't think that that is the case. The parking meters on the beach are just one facet. The state beach has many, many parking spots. We also have leased spots throughout the center of the beach, so that the parking meter portion is only a very small parcel of this.

SENATOR HOUGH: The proceeds from the parking meters went to the general fund, and out of the general fund was appropriated the operation and the debt service for the capital project those now will be molded into the State Fund Park Fund, and the operation and the capital expenditures in the system will be carried by the revenues generated by the park system. So the amortization of the outstanding debt of the seawall will be picked up by the Park Fund, as opposed to a debt service appropriation with the general fund, unless, I don't believe that I'm wrong. Correct me if I am wrong, but this question was addressed this morning, and we asked the staff questions and the answer that I gave you is what I got for information.

SENATOR HOLLINGWORTH: Is there a possibility that, excuse me, is there a good reason why we are taking action on this now, so that I have some concerns and I am looking for some answers that we are taking action immediately, that we can't . . . this couldn't go to a committee so that those questions could be raised, and that my

people from my community could be assured that this is not a change in the present law, and that I'm not prepared at this time to vote on this because I certainly would not be able to represent my people not knowing some of the answers.

SENATOR HOUGH: Well I understand what your question is, but I would tell you that the establishment under this bill of the State Park Fund will allow for the revenues generated from the Park system to be used for the operation and the amortization and the enhancement of the state parks. And the obligations that are presently assumed under the debt service of the state will be assumed now under the obligation of the fund. So you will not find yourself in a situation if you will, where the changing in the structure of the system would allow for the Hampton Seawall capital project to not be met.

SENATOR SHAHEEN: I'm still not clear, Senator Hough, on why the urgency needing to pass this today?

SENATOR HOUGH: Clearly the signal by action of the House is that there will not be funding for the summer operation of Sunapee State Park as of July 1. Prior action by HB 50 made a supplemental appropriation to allow the people at Sunapee to continue the ski season and prepare for the opening of the summer season and the summer season opens for all intended purposes on Memorial Day. The scare tactic, if you will, of the House Appropriation committees action of failure to act in HB 25, by not funding summer operations, is causing tremendous disruption in the vacation, tourism industry in that region. There is an urgency for the state emphatically by the passage of this bill. The parks will remain open in the summer, the promotions, the bookings, the staffing, can continue to meet the season as it approaches.

SENATOR SHAHEEN: I'm certainly sympathetic with the need of DRED and the State Park to assure people that they're going to have the funding required. I guess my concern is, if we pass this, do we not then open the door to passing a similar measure to deal with the university system, and a similar measure to deal with DCYS, and a similar measure to deal with every other department and agency who is concerned that their budget request is not going to be adequately funded in the proposed budget?

SENATOR HOUGH: Well I would answer the question in this way. As far as the university system is concerned, clearly I recognize and you recognize in that the appropriations bill passed by both Houses and accomplish and adequately address the university and the youngsters that are to arrive in the campuses in September will



know what their cost and their programs will be. Were it otherwise it wouldn't have my support, nor would it have your support. The larger question is do we in effect pass supplemental appropriations in anticipation of inadequate funding in the biennial budget. I think clearly I have indicated that you shouldn't do that. But this legislation establishes a self-sustaining self amortizing enterprise fund that allows both the ski operations and the service parks to operate within budget on revenues received for the cost from the operation. And so we are not providing supplemental appropriations, we are establishing the ability for these two entities to operate within revenue, subject to the approvals of executive and legislative oversight.

SENATOR SHAHEEN: Is there a magic reason why today is the day we have to do that, as opposed to the next time we are in session, or the following week?

SENATOR HOUGH: Senator Shaheen, the only way that I can answer that question is, I feel that it is critically important in that we move forward on this piece of legislation that brings to fruition and culminates the work that's been going on by both legislative and executive and members of the private sector over the last three to four years and puts to rest the concern that the larger population of the state has, regional concerns that are expressed by the ability of the state of New Hampshire's recreation industry to be open for business this summer. I guess to say otherwise, it would be differences of point of view. I feel that it is important, you raised the question, that's my answer.

Recess.

Out of recess.

SENATOR HOUGH: So as I was saying . . . In conclusion to my remarks why you should act favorably upon passage of HB 53 as before us under suspension of the rules. I would simply say and that apparently there is no misunderstanding amongst the membership, for this body to act responsibly and decisively in regard not only to the summer season at Sunapee State Park, but for the Park System in general, however, and there are members apparently that would wish to take this piece of legislation under further advisement. Certainly I would respect the wishes of the membership. So at this point I would conclude my remarks. We have a bill before us, as I understand it, which has a motion of ought to pass. We are under suspension of the rules, the bill has not been referred to third reading, and I would request that before we take final action and put it on third reading, and that we allow the windows to be open and subject to have the benefit of light, and further action be delayed till a date and time certain.

PRESIDENT DUPONT: Senator, do I understand that you're reconsidering your actions whereby you move that this bill, that the rules of the Senate be suspended to allow the passage of this bill without a hearing, is that what I heard you say?

SENATOR HOUGH: That is what you heard me say.

### NOTICE OF RECONSIDERATION

Senator Hough has moved reconsideration.

Adopted.

HB 53, is referred to a committee and a hearing held on Monday.

Senator Heath in opposition to HB 53-FN-A.

SENATOR DISNARD (RULE #44): It's a gratifying and very important for two contracts that have to be signed almost immediately, which will be held off probably the first of next week. That those people involved would realize that the Senate is saying they strongly support an appropriation or continuing of revenues to keep Sunapee Park open this summer and next fall. Thank you.

SENATOR ROBERGE: Senator, you didn't mention what committee or what time on Monday, or the room number?

SENATOR DUPONT: Senator, I am going to have to take a look at what committee should hear this bill and the willingness of that Chairman of that committee to bring the committee in on Monday, which I'll try to deal with in the morning so that you'll all have adequate notice. I'm looking for volunteers.

### INTRODUCTION OF HOUSE BILLS

#### HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

**HB 35-A**, making appropriations for capital improvements. Capital Budget committee.

**HB 62-FN**, relative to retirement allowances under the New Hampshire retirement system. Insurance committee.

**HB 64-FN-A**, relative to establishing a tax on nuclear station property and making an appropriation therefor. Ways & Means committee.

**HB 161-FN**, to allow former federal employees to purchase credit for their federal services as creditable service, relative to providing retirement benefits upon the death of certain group I and group II members, and to define employer participation in the retirement system. Insurance committee.



**HB 193-FN**, authorizing the state to enter into a lease-purchase agreement with the town of Milford for a new district courthouse. Capital Budget committee.

**HB 211-FN-A**, relative to administrative fees of the air resources division and continually appropriating such fees. Environment committee.

**HB 262-FN**, revising hazardous waste facility permit fees. Environment committee.

**HB 310-FN**, increasing the hazardous waste transporter vehicle registration fee. Transportation committee.

**HB 323-A**, relative to the Cheshire Bridge and making an appropriation therefor. Capital Budget committee.

**HB 324-A**, relative to highway projects and bond issuance and making an appropriation therefor. Capital Budget committee.

**HB 329-FN-A**, relative to the business corporations act and appropriating funds for certain administrative expenses to be reimbursed by fees. Economic Development committee.

**HB 341-FN**, relative to a foundation aid formula study committee and establishing a maximum equalization factor for the foundation aid formula. Education committee.

**HB 363-FN**, relative to criminal record checks and fees charged for criminal record checks. Judiciary committee.

**HB 381-FN-A**, relative to the recovery of legal fees incurred by the state. Judiciary committee.

**HB 416-FN-A**, relative to drug-free school zones and making appropriations therefor. Judiciary committee.

**HB 431-FN**, relative to exempting certain purchases for severely emotionally disturbed children from state purchasing requirements. Education committee.

**HB 515-FN**, giving legislative approval to the division of water resources, department of environmental services to accept certain dams if repair costs are paid by the current owners. Environment committee.

**HB 539-FN-A**, relative to a committee to study the uninsurable and making an appropriation therefor. Insurance committee.

**HB 549-FN**, relative to early retirement for state employee group I members of the retirement system. Insurance committee.

**HB 550-FN**, relative to the withdrawal of accumulated contributions and retirement system membership. Insurance committee.

**HB 648-FN**, relative to the industrial development authority and the housing finance authority. Economic Development committee.

**HB 669-FN**, relative to the borrowing authority of the state treasurer. Finance committee.

**HB 745-FN**, relative to sewage disposal systems. Environment Committee.

**HB 780-FN**, relative to water treatment plant operators and fees for water system permits. Environment Committee.

**HB 336-FN-A**, relative to the rates of certain state taxes. Ways & Means committee.

**HB 660-FN-A**, establishing a highway and bridge betterment program and making an appropriation therefor. Capital Budget committee.

**HB 611-FN**, relative to plastic holding devices used in packaging. Environment committee.

**HB 649-FN**, relative to the cigarette tax. Ways & Means committee.

**HB 688**, relative to the Mount Washington Regional and the Berlin Municipal Airports. Transportation committee.

Adopted.

### RESOLUTION

Senator Delahunty moved that the rules of the Senate be so far suspended to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

### RESOLUTION

Senator Delahunty moved that the Senate be in recess until Tuesday, April 16, 1991 at 1:00 p.m., for the sole purpose of introducing legislation, referring bills to committee, enrolled bills reports, and scheduling hearings.

Adopted.

### RESOLUTION

Senator Currier moved that the Senate be in recess until Tuesday, April 16, 1991 at 1:00.

Adopted.



**LATE SESSION****Third Reading And Final Passage**

**SB 60-A**, creating a task force to study the Laconia - I-93 connector highway.

**HB 103**, an act relative to the time period for perfection of a purchase money security interest under the uniform commercial code.

**HB 117-FN**, an act relative to housekeeping changes in the weights and measures laws.

**HB 153-FN**, an act to regulate the handling of manure, agricultural compost and chemical fertilizers.

**HB 162-FN**, an act extending the committee studying a statewide trauma care system.

**HB 185**, an act relative to certain security transactions exempted from registration.

**HB 186**, an act relative to isolated sales of securities.

**HB 270-FN**, an act relative to filling and dredging in wetlands.

**HB 335**, an act relative to license plates for antique motor cars.

**HB 351**, an act relative to personal flotation devices for sailboards.

**HB 352-FN**, an act relative to the oil discharge and disposal cleanup fund.

**HB 356-FN**, an act relative to uniform penalties pertaining to farm products.

**HB 364-FN**, an act relative to the opening and closing of deer season.

**HB 375-FN**, an act authorizing towns to accept donations of property.

**HB 436-FN**, an act making the purchase, possession and control of child pornography a misdemeanor.

**HB 460-FN**, an act relative to the health data advisory committee.

**HB 478-FN**, an act relative to the emergency shelter program.

**HB 481-FN**, relative to disposition of a deceased individual's estate.

**HB 486-FN**, an act relative to collection of forfeitures of recognizances by the division of motor vehicles.

**HB 490-FN**, relative to continuation of state health and dental insurance benefits for state employees called for active duty between August 2, 1990, and March 15, 1991.

**HB 516-FN**, an act relative to library trustees' authority to accept gifts.

**HB 555**, an act limiting horsepower on Big Pea Porridge Pond.

**HB 565-FN**, an act relative to marine oil spill response, oil spillage in surface waters or groundwaters and underground storage tanks.

**HB 578**, an act establishing an advisory committee on Governors state park in Laconia.

**HB 597-FN**, an act relative to licensing of nurses.

**HB 629-FN**, an act establishing a task force on congregate housing.

**HB 676-FN**, an act relative to notice of discontinuance of class IV, V, or VI highways.

Recess.

Out of Recess.

## INTRODUCTION OF HOUSE BILLS

### First and Second Reading and Referral

Senator Delahunty offered the following Resolution:

Senator Delahunty moved RESOLVED, that in accordance with the list in the possession of the Clerk, House Bills numbered 107-FN through 592-FN-A shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

## HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate.

**HB 107-FN**, relative to registration fees for dams. Environmental committee.

**HB 114-FN**, relative to the date for terminating the motor vehicle emissions inspection program. Transportation committee.

**HB 143-FN**, relative to the liquor commission's authority to close liquor stores. Ways & Means committee.

**HB 146-FN-A**, relative to the rate of the business profits tax. Ways & Means committee.

**HB 258**, to extend the lapse date for the phase V prison construction appropriation. Capital Budget committee.

**HB 275-FN-A**, establishing a permanent heritage collections committee and a New Hampshire heritage trust fund, continually appro-



priating funds in the trust fund to the committee, and making an appropriation therefor. Public Affairs committee.

**HB 322**, relative to the business profits tax, the real estate transfer tax, the communications services tax, and the administration of state taxes. Ways & Means committee.

**HB 328-A**, relative to a new Manchester district court facility and making an appropriation therefor. Capital Budget committee.

**HB 353-FN-A**, to tax smokeless tobacco and making an appropriation therefor. Ways & Means committee.

**HB 378-FN-A**, relative to determining reasonable compensation under the business profits tax. Ways & Means committee.

**HB 393-A**, relative to preliminary designs, an environmental impact statement for improving access to the Manchester airport, re-establishing a legislative task force and making an appropriation therefor. Capital Budget committee.

**HB 427-A**, relative to additional improvements on Gosling Road and making an appropriation therefor. Capital Budget committee.

**HB 448-A**, appropriating funds for environmental and engineering design studies for the Ledyard Bridge in Hanover and making an appropriation therefor. Capital Budget committee.

**HB 488-FN**, relative to the flexible spending programs. Finance committee.

**HB 592-FN-A**, relative to court fees. Ways & Means committee.

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

**HB 106**, establishing a committee to study the feasibility of an enhanced statewide uniform emergency 911 telephone system.

**HB 132**, reclassifying portions of certain highways in the town of Sandwich.

**HB 138**, relative to spousal support.

**HB 167**, relative to airman certificates and fees.

**HB 240**, relative to the disposition of the Kona Wildlife Management Area.

**HB 253**, naming a certain segment of U.S. Route 202 the General Isaac Davis White highway.

**HB 288**, establishing a study committee on premature birth.

**HB 290**, relative to the sale of hunting licenses.

**HB 333**, relative to notification of insurance cancellation.

**HB 414**, relative to unfair claim settlement practices.

**HB 459**, relative to notice received by the wetlands board from local conservation commissions.

**HB 531**, relative to personal care for the severely physically disabled.

**HB 656**, relative to criminal mischief.

**HB 703**, relative to the negligent discharge of firearms.

**HB 711**, extending the reporting date for the committee to study child care in public and private sector buildings.

## INTRODUCTION OF HOUSE BILLS

### HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

**HB 25-A**, making appropriations for the expenses of certain departments of the state for fiscal years ending June 30, 1992, and June 30, 1993. Finance committee.

**HB 65**, relative to administration and enforcement of the securities laws, state employee benefits, and state fees, funds revenues, and expenditures. Finance committee.

**HB 443-FN-A**, relative to shoreland protection and making an appropriation therefor and relative to pesticide applications. Environment committee.

**HB 463**, relative to rulemaking for the board of education. Executive Departments committee.

**HB 727-FN**, relative to DWI testing, motor vehicle records fees, and commercial driver licenses. Transportation committee.

Adopted.

### LATE SESSION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Tuesday, April 16, at 1:00 p.m.



Senator Delahunty moved to adjourn.

Adopted.

Adjournment.

*April 16, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let Us Pray. Lord, help us not to overextend ourselves with the budget and taxes! There is only so much we can do with what we have, and that which the future may bring! Help us Lord, we sure do need your help!* *Amen.*

Sen. Bass led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

#### HOUSE CONCURS

The House of Representatives concurs with the Senate in the passage of the following entitled Bills and Resolutions sent down from the Senate:

**SB 29-FN-A**, establishing a legislative ethics committee.

#### HOUSE CONCURS WITH SENATE AMENDMENTS

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate.

**HB 180-FN**, to establish a study committee to evaluate whether a consortium of all law libraries within the state of New Hampshire is economically feasible and practical.

**HB 121-FN**, relative to limiting the mode of taking deer in Dover, Rollinsford, and Somersworth.

**HB 707-FN**, relative to contracts for stenographic and clerical services for indigent defense.

**HB 715-FN**, relative to the right to jury trial in civil cases.

#### SPECIAL ORDER

**HB 706**, an act relative to the allowable length of semi-trailers. Transportation committee. Ought To Pass. Senator Carrier for the committee.

SENATOR CURRIER: This bill adds five feet in the length of trailers and basically will give some of our Northern companies an opportunity to compete on a more level playing field with regard to the hauling of their materials out of the state. Vermont recently has passed this piece of legislation which now actually allows trucks of this size to maneuver through 47 other states. Maine, and Massachusetts, and Connecticut currently do not have this legislation, but there are efforts to expand it. Basically the trucks are only allowed on interstate highways and defense highways and then a route from the highway to their terminal. This would not be an extension of the local trucking that is done in our community with a truck this length, but basically for long term, long hauling over the highway system.

SENATOR OLESON: What this bill simply does, and it is very simple language. Is allow the trucks in New Hampshire, at the present time the trailer length is 48 and to extend it to 53. And what the bill simply does, is to allow our businesses not only in Northern New Hampshire, but throughout New Hampshire, to be in the same competitive range as most of our states in our union. Thank you, Mr. President.

Adopted.

Ordered To Third Reading.

SENATOR PRESSLY (RULE #44): I rise to speak at this time for a very specific purpose. As you know, I made no effort to speak when this last bill was being voted upon, but I think a major concern has been defined at the hearing of this bill and the passage of this bill. And I rise at this time to tell the Senate what I see happening in our nation and to alert you to what I see as a very detrimental situation for the state of New Hampshire. New England and the state of New Hampshire is really at the tail end of an evolutionary process. This is the map that was shown to our committee. All of the states in red now have already extended the length of their trucks. As you can see the New England states are totally isolated and by themselves. What this means is that while we are passing the bill that has just passed this body to catch up to what the other states are doing. They are simultaneously making efforts to increase it even further. Here is a picture of some trucks; I have some data here that demonstrates that in approximately 1950 the average length of a truck was twenty-five feet, and you look at the charts and the sizes have grown and grown, and grown. What I am hearing today is that other states and other parts of the nation are now proposing and making efforts to allow for triple trailers. In the country of Australia they have a concept that they call a road train and let your imagination run away,



it's exactly that. It's a multi-trailer pulled by one engine. What has happened over time is that our trucks have gotten larger and larger, and our automobiles have gotten smaller and smaller. It's even conceivable now that if a truck does not have a special bar at the back, that one of our small compact cars could just drive almost right under the back end of some of these big trucks. It seems to me that now is the time we have just caught up with what the rest of the nation is doing and we're rather caught in a bind and I supported doing that. But it seems to me unless we want road-trains traveling on our highway now is the time to begin to communicate our concerns to our congressional delegation to other states. Let people out there know that we think this is big enough, long enough, cumbersome enough to be handled in New England. Most of this starts in the west, and if you can visualize the western part of our country they have long expanses and long stretches of roads and highways and it maybe makes more sense for them to have these large vehicles. But what happens in New Hampshire and New England is quite different. We're very close together. Our roads and highways are smaller. It is much more difficult for one of these large vehicles to maneuver and manage comfortably on our highway. I'm not sure that the average motoring citizen is being heard and I think it's time that we start to think of the safety and think of the nation trend. And I'm intending, and I hope that my colleagues, that you will join me in some effort to start to vocalize and to raise objections with the whole national process that places New England and specifically New Hampshire in a situation where we have things on our highway that we really just don't want, but feel that we have to in order to allow our industries to be competitive. I thank you for your time and when I do prepare some communication I will respectfully request that you join me and that we as a state and as a governing body begin to be more concerned and aware of what is happening nationally and how it affects New Hampshire at the end of the line. Thank you Mr. President.

SENATOR OLESON (RULE #44): As I said before, this wasn't just a concern over in my district. This is a concern of every company that transports goods in or out of the state of New Hampshire. I would be more than willing and I made the promise that if this bill goes through, and you want to set up any kind of a study committee, that I would be more than happy to put in legislation to study as far as the overall length that is concerned; however, I think that that is a problem that our people down in Washington can address. I'll try to stress again, that this bill is merely a catch-up bill. If you want legis-

lation to govern your overall length, and I think that that should be a separate bill and that we can consider that in the future. Thank you very much.

### COMMITTEE REPORTS

**HB 183-FN**, an act relative to the imposition of fines for securities violations. Banks committee. Ought To Pass. Senator McLane for the committee.

SENATOR MCLANE: This bill was put in at the request of the office of Securities Regulations, Al Rubega. And it makes explicit as he explained what has been implicit. The issue of multiple fines has not been raised yet, but the language was not clear and they felt that they assumed that the \$2,500 in fines was for one instance and not for an accumulate violation.

Adopted.

Ordered To Third Reading.

**HB 188**, an act clarifying definitions of "investment metal contract" and "investment gem contract" for purposes of securities regulation. Banks committee. Ought To Pass. Senator Pressly for the committee.

SENATOR PRESSLY: The purpose of this bill is to strengthen already existing statutes. It was pointed out that due to the potential of an investment scam that almost 1 billion dollars was lost in 1989 and this is an effort to tighten up our laws so that this type of a scam can be prevented in the future.

Adopted.

Ordered To Third Reading.

**HB 256**, an act limiting liability of any person, firm or corporation which donates equipment or services to any postsecondary technical training program. Education committee. Ought To Pass. Senator Disnard for the committee.

SENATOR DISNARD: The Education committee recommended Ought to Pass. This bill is consistent with RSA 188-F:32-c whereby volunteers providing services to the police standards and training council are given protection from civil suit. It's interesting to know that in just one instance this year in 1991 thus far, the Technical College system has received an excess of \$400,000 worth of TAPE INAUDIBLE from automotive manufacturers and this is to protect in the case of a liability problem. It's a good bill.

Adopted.

Ordered To Third Reading.



**HJR 3**, an act requesting the University Cooperative Extension Service to continue to work with the governor's commission on the 21st century. Education committee. Ought To Pass. Senator Disnard for the committee.

**SENATOR DISNARD:** This is a Resolution, there isn't any cost. No dollars attributed. All it indicates is that the legislature is clearly behind the efforts of the Governor's commission on the 21st Century and sends a clear message to the University that we want them to cooperate with the commission.

Adopted.

Ordered To Third Reading.

**HB 53-FN-A**, an act establishing a continually appropriated state park fund and a ski area funding mechanism. Finance committee. Ought To Pass. Senator Hough for the committee.

**SENATOR HOUGH:** The committee on Finance held a public hearing yesterday morning on HB 53 and it is a bill that was discussed a week ago on Tuesday and the committee's report is Ought to Pass. I would be happy to address any further questions, but I think that we addressed the subject of the bill and that after a public hearing yesterday the committee's report is Ought to Pass.

**SENATOR HEATH:** I suspect I know where the votes are on this, but I want to make this statement because I think that it is important. I've talked about the ski areas in the past before. The argument on this legislation is that there are dependent businesses in the area that these parks help and that if we delay this and put this in the usual priorities that go through the budgetary system, normally, those businesses will be harmed. My only objection in this is continuing state owned, state operated, run at a loss every single year, even by their finessing their statements they run at a lost. They don't pay the retirement, they don't pay the insurance that private business has to pay. They undercut them and then they make a big sale point and use money derived from the taxes of the private ski areas that compete with them to advertise that they undercut them and they're the best bargain in the state. And we supplement them each year so that they can undercut the private business that pay business profits tax, that pay rooms and meals tax to try and compete with the state in a business. I think the parks are fine, because the parks aren't a competitive business. But the ski areas are in competition with private business. They were set up for the purpose of demonstrating that we could have ski industry in New Hampshire, they did that. People went out and invested. Now we have Cranmore, and Loon, and Attitash and all the rest throughout the

state that are now being undercut and they do a better job. I mean I believe that Attitash has more in one season, more skiers in one season than the two state owned ones combined. I would just ask that you think about the priority and what you are doing. If promising that the parks are going to be open this summer helps business in your area, Senator Disnard, promising that there is going to be a continued state investment in competing with the businesses in my area is just as devastating and I would just ask you to consider that and look forward. I hope before I leave this body, but I doubt, that those will be leased or sold or dismantled. Preferably leased, so that it is a positive in the black income to the state instead of a negative. If we are talking about priorities and we don't have much money it seems to me a very low priority to be running two businesses that compete with businesses in the state that undercut them and subsidize them and to do it largely for people out of state and not even state taxpayers, are reaping the subsidy of having that ticket in part payed for by the taxpayers of the state of New Hampshire. And with the passage of this bill you are fostering that one more cycle, and it seems to me that it is unfrugal, that it is undemocratic to compete with private business, undemocratic in the system that we allegedly believe in in free enterprise and that it is dollar foolish to continue this charade of being in business to compete with private individuals and I would urge you to vote against this, but I don't think you will, so I would urge you to think about this in the future when you might have more options and, I hope, higher priorities.

SENATOR COHEN: Senator Heath, is it not true that the Sunapee for example, is used for a lot more than simply skiing, so in that sense it is not competing with the private enterprises as it is a state park open to the public and used for many other things besides skiing?

SENATOR HEATH: That is true and I have no objection to the functions as a state park, in fact I encourage it, and I have an interest in Sandwich where the arts and crafts league began and spread across the state. They have a great fair there and I support that, and I support that as a park. The only thing that I am making my remarks about is the ski business. We ought not to be in it. Lease it, let somebody else do it, sell the equipment, but let's get out of the ski business. A park doesn't compete with private business, the ski business does.

SENATOR HOLLINGWORTH: First, I'd like to thank this body and the Senate Finance for being so kind to me last week and allowing this bill to go through the normal process of having a hearing because it gave the bill time to be heard by the concerns of my com-



munity and to address some of those myself with the parks and to bring those before the Senate Finance and they did give me ample time to discuss my problems. This bill does make change and I agree with Senator Hough, I mean Heath, that there are some things that we would rather have, I keep putting the two of them together, the two Senators. But if this were a perfect world, ideally this bill should have come in two parts, because the first part deals with Sunapee, and the funding for Sunapee. The second part deals with the policy of setting up a mandated program for state parks for the service parks. I have to say that at this time I am going to support the legislation. I think it's something that we will want to look at in the coming years, particularly in this next coming year, to determine what's happening in the ski areas and what is happening in our service parks. I agree that it needs to have close scrutiny in these frugal times because Hampton, which is one of the parks that has done well in the past few years, has been contributing heavily to the support into the general fund and that money will, none will be going into the parks. I hope that this will be the right decision. My community understands the difficult time that this state is facing and they are hoping that we will find ways to fund the needs of prenatal care and elderly and all the other things and continue funding parks, so I will support this legislation, but I will be keeping my eyes on that program and I hope that you, the rest of you will do the same, because I think that there are some hard questions that we have to ask ourselves about the policies that we will set and whether in fact this is the right decision that we are making.

SENATOR MCLANE: I was not going to speak, but I feel that in light of Senator Heath's criticism of the ski areas and the business of New Hampshire being in ski areas that it might be important for the record to rise in their defense. First of all, I think it is commendable, the relationship between the state ski areas and the private enterprise. And I don't think that there is any strong indication from the private ski areas that they haven't felt a good cooperation with the state areas. The state of New Hampshire got into skiing with the building in 1938 of the Tramway at Cannon Mountain. And that project would never have been by anyone but the state given the economy at that time. We got into the skiing business and unfortunately, Senator Heath, we are going to have to stay in the skiing business for two reasons. One, no one would put up the money to buy either one of those ski areas as the many other ski areas that are for sale at this time have discovered. Secondly, if the ski areas were sold, the majority of the money that was brought in would have to go back to the federal government. The reason being that a lot of the construction, the snow making particularly, that has been built at either of

those two ski areas came from federal bureau of outdoor recreation funds. The federal law says that if they are sold that that money would first be returned to the federal government. So that I think that was the thrust of the study committee which the state had two years ago, which is, we are in the business by hook or by crook, by history really, we've got to stay in the business and that we should run the business like a business and that was the reason for the reorganization and the reason for HB 53, and for that reason, although I don't like to see more than anyone those ski revenues that used to go for Human Services going into Parks and Recreation. But I can see that they need the power to run their department as a business and for that reason I do agree that HB 53 is a good idea.

SENATOR HEATH: Senator McLane, have you ever heard in the history of the ski business in the state of New Hampshire that they have made a profit and put money into the general fund?

SENATOR MCLANE: I believe that there have been years. Back in my childhood, it used to snow. And there have been years when they've had good snow, but it has not been true lately, and I also would like to state that there isn't another private business except for perhaps Loon Mountain that's made money this year. The ski business is a very difficult business. It isn't a place where you make money and most of the private developments have made money over their surrounding land, over sale of condominiums and sale of other services, but skiing. Skiing has gotten more and more expensive every year and you need more and more snowmaking in order to attract the skiers. And so I don't think that many businesses are going to make money skiing, unless there happens to be a really good snow year.

SENATOR HEATH: Senator, then isn't that more imperative that we stop undercutting and competing with the private businesses if they are struggling as you say they are, and as we all know they are?

SENATOR MCLANE: Well, if I heard that from the ski business itself, I think I would be more sympathetic, but I, as I pointed out in the beginning, I believe that the ski areas have cooperated and have gotten along and they have urged the state in certain instances to put up their ticket prices so that they are not undercutting. And I think that every single ski area offers a different experience.

SENATOR HEATH: Senator, you said twice now and the reason that I originally rose was to do, would you believe? You've said twice now that the private ski areas are not complaining and are cooperating with the state. Would you believe that I hear all the time from them on a private basis from almost every ski operator in my district



and some outside, the bitterness that they will not go public with because they are so dependent on the state in terms of transportation needs. For example, the Conway traffic problem and in terms of the advertising and so on, they will not complain bitterly what they privately resent, and that is that the state not only competes with them, it subsidizes at a loss with money that could be going to the many of the needy programs that you support. It takes their money to do it in part, the business profits, although there aren't any of those probably in the last few years from the private. The rooms and meals which they do generate in an enormous proportion and dedicates that to advertising that the state undercuts them by a \$1 or \$2 a day and that they very much resent that, but they can't do that publicly for fear that the state will retaliate and leave them out of the brochure or in some other way punish them. If you believe that that is the real state of their mind and not as you suggest one is happy and likes the competition and cooperation.

SENATOR MCLANE: I would be very sorry to believe that.

SENATOR ROBERGE: Senator Heath, as long as I have been in the Senate, we have been constantly subsidizing the state owned ski areas. What I am reading with this bill if that should turn around, subsidize by taking money out of the general fund. What I am reading in this bill is should those ski areas make a profit they are not willing to return that kind of favor to the general fund, and I don't understand that, particularly when we need the money so badly in other areas why are we funding recreation when we have human needs that are much more important?

SENATOR HEATH: Senator, I don't know, but it not only doesn't surprise me that they're not willing when they get some money to put it back in, but I think that we won't ever have to worry about realistically speaking, because they have never even in their form of bookkeeping system made a profit. They don't have to privately insure, they don't have to pay back their capital assets. Their operational cost is partly supplemented beyond what they have this sort of cigar box cash thing, and I mean when they talk about balancing or making money, they are talking about just what comes in admissions and what goes out in personnel. But they don't have the retirement and all the other things that the private businesses have to do, so I don't think that we have to worry. But it does strike me as it does you, as a very bad attitude that once they turned it around, if their dream fantasy comes true, that they wouldn't kick it back in and help some of the people who are more needy than the yuppies in their BMW's coming up from Worcester, MA to ski here.

SENATOR OLESON: I rise in support of HB 53. I've heard the arguments, the same arguments about 24 years that I am hearing here today. And what we used to say more or less, and we always had an idea that on the overall picture of Cannon and Sunapee were our two moneymakers, plus a small park in Pittsburgh. In other words, every other park in the state lost money. At the same time we had to think about the spin-off effects. We spent several millions of dollars to coax people into the state of New Hampshire and when they come into New Hampshire we have to have something to offer them, either parks or ski tows or whatever they have up here in the winter time. In my district, Mr. President, we have three. We have the Wilderness, we have the Wildcat, and we have Cannon, in my district one. Once in awhile I do hear maybe a complaint from Wildcat or whatever that there is competition, but remember, Cannon was aboard before these other two came aboard, so they knew what the problems were and they knew where the competition lies. When a park, one of the parks I have in my own town, some time ago they shut it down for a couple of weeks and maybe all the mama/papa stores called up and wanted to know what was going on, you shut our parks down and I've lost half of my business. When I talk about business, most of them happen to be beer and cigarettes. So when we talk about the economy of New Hampshire, in my county, district, whatever, we've got two things going for us, pulp and paper, and so-called hospitality and we depend on our ski tow. We depend on our parks to bring these people in and to bring them in we spend several millions of dollars, I'm repeating myself, to do the job. When we were talking about taking care of certain groups of people continued to say this way we can save money. You do not save money by cutting out your moneymaker and on the overall picture, our parks and our ski tows are part of the economy of New Hampshire. Thank you, Mr. President.

SENATOR DISNARD: I'll be brief, I wasn't going to speak because as Senator Blaisdell mentioned, Senator Lamontagne a number of years, he could count the votes. Well I can't stand and represent my area and have people say the human needs will not be met by the passing of this bill. The employees, the workers in my area that have held several meetings the last week, and especially the last weekend, worried about their jobs, are humans and they do have human needs, Senator. And they are worried about paying their bills and putting food on their table, so I hope that we will continue and carry out the votes that are said here and these people are human and they have feeling and needs, too. Thank you.

Senator Blaisdell has moved the question.



Adopted.

Adopted.

Ordered To Third Reading.

Senator Heath in opposition to HB 53-FN.

**HB 259**, an act permitting a municipal governing body to assign street numbers. Public Affairs committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, the primary purpose of this bill is to make it clear that the governing body in a municipality, city council, or whatever has the authority to assign the numbering of buildings along streets. It has been, there have been some problems over the past year with municipalities attempting to do this in an effort to provide better information for emergency personnel and so forth in some of the larger communities and there was a gap in the statute which is filled by this bill. Secondly, the bill also resolves a conflict between two statutes that discuss how the streets are numbered. Public Affairs committee urges your adoption of the committee recommendation of Ought to Pass.

SENATOR HEATH: Senator Bass, I've always lived in towns that didn't have numbers on houses and I hope that the rest of my life I continue to do that. I'm wondering if this is going to increase the numbers or how does this change the likelihood of that that will happen in a small town?

SENATOR BASS: Well it leaves the discretion up to the governing body which is a selectman and the only justification in the past that has been of giving street numbers is in larger communities where emergency response personnel have difficulty identifying that the Heath house is two houses after the intersection, or whatever. It becomes difficult to do that. In your particular instance, I doubt that it would really happen, but if it did, you would have to accept it.

SENATOR HEATH: Well Senator, we have some avant-garde selectmen now. Would the elective body, legislative body of the town be able to override that decision?

SENATOR BASS: No. Not that I am aware of. At least it doesn't say it in the bill.

SENATOR HEATH: If I want to retain this lifelong goal of living in towns without house numbers, I would either have to move or vote against this bill?

SENATOR BASS: No, Senator Heath, you wouldn't have to do either, because it would be highly unlikely that that event would occur in your particular area.

Adopted.

Ordered To Third Reading.

Senator Heath in opposition to HB 259.

### **TAKEN OFF THE TABLE**

Senator Colantuono moved to have HB 330 Taken Off The Table, an act establishing a committee to study the issue of an office of the ombudsman for children.

Adopted.

**HB 330-FN**, establishing a committee to study the issue of an office of the ombudsman for children. Ought To Pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: Yes, I would like to move that this bill Ought to Pass as Amended by floor amendment #2507L. The basic reason this was laid on the table were two concerns that the Senators had. The first one, being the study committee was made up of an uneven number of House members versus Senate numbers, and the second dispute some Senators had with the original version was that this study committee simply studied the duties, power and management and operating cost of an ombudsman without studying the threshold question of whether there really should be one and in the Judiciary committee in recent hearings that we have had on bills relating to DCYS, we discovered that there is a lot of concern among the public about how DCYS operates, and one of the suggestions that came out of those hearings was that perhaps we need an ombudsman at DCYS where parents and families can go in addition to children. So this amendment would simply allow that whole subject to be studied and decide whether we need one ombudsman where everyone could go, an ombudsman for children and then an ombudsman for parents, or maybe no ombudsman because they should be handling the matter in some other way. And then we've also taken care of the other problem here by making up the committee with three members of the House and three members of the Senate so that there will be equal representation.

SENATOR J. KING: Senator Colantuono, on the amendment, the last sentence on the first page (on or before November 1, 1992) is that what it is supposed to be or is that supposed to be 1991?

SENATOR COLANTUONO: Well it is supposed to be 1991.

PRESIDENT DUPONT: We have a correction on the date. Then we would at this point in time clarify that the floor amendment, last sentence on page one, the correct date is November 1, 1991 rather than waiting for an amendment to come up from Legislative Serv-



ices. If the body is willing, we will make that change and adopt the floor amendment with that date. Hearing no objection from the body, the question before you is the adoption of the floor amendment #2507L.

Adopted.

Senator Colantuono offered a floor amendment.

### **Floor Amendment to HB 330-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study an office of ombudsman  
at the division for children and youth services.

Amend the bill by replacing sections 1-3 with the following:

1 Committee Established; Duties: A committee is hereby established to study an office of ombudsman at the division for children and youth services. The committee shall consist of the following:

I. Three members of the house, appointed by the speaker of the house.

II. Three members of the senate, appointed by the president of the senate.

2 Initial Meeting. The first house member appointed to the committee shall call the first committee meeting, provided that the first meeting is held within 30 days of the effective date of this act. The committee members shall choose a chairman from among its members at the initial meeting of the committee.

3 Report. The committee shall submit a report on its findings and recommendations for legislation, including, if recommended, proposed legislation establishing an office of ombudsman at the division for children and youth services, to the speaker of the house, the senate president, and the governor, on or before November 1, 1992.

#### **AMENDED ANALYSIS**

This bill establishes a committee to study an office of ombudsman at the division for children and youth services.

The committee shall consist of 3 members of the house and 3 members of the senate.

Floor Amendment Adopted.

Ordered To Third Reading.

**TAKEN OFF THE TABLE**

Senator Hollingworth moved to have HB 428-FN Taken Off The Table, an act relative to the enforcement and administration of state taxes by the department of revenue administration.

Adopted.

**HB 428-FN**, relative to the enforcement and administration of state taxes by the department to revenue administration. Ought To Pass With Amendment. Senator Hollingworth for the committee.

SENATOR MCLANE: This bill was the result of three years of work by the House Ways and Means committee and the Department of Revenue Administration. It concentrates on fairness, it's not really tax raising, but I do believe that the accumulative result would be more revenue for the state. The amendment answers the problem that the Supreme Court has just said that the department did not have the power to distrain a bank account and so the amendment counteracts the Supreme Court decision in that it does give the department the power to distrain. There were several very important, worthwhile and helpful amendments that were worked on and I really should give all credit to Senator Hollingworth for her work on this bill and perhaps it would be more appropriate if she explained the amendments to the Ways and Means committee amendment.

Recess.

Out of recess.

**Amendment to HB 428-FN**

Amend the subdivision heading inserted by section 5 of the bill by replacing it with the following:

Refunds, Appeals For Redetermination or Reconsideration,  
Liens, and Distrains

Amend section 5 of the bill by inserting after RSA 21-J:28-c the following:

21-J:28-d Distrain. Upon neglect or refusal of any person or corporation to pay the taxes assessed upon them, the department may distrain the personal estate, property interest, right or credit of such person or corporation.

Amend the bill by inserting after section 33 the following and renumbering the original sections 34-42 to read as 36, 37, 38, 39, 40, 41, 42, 43, and 44 respectively:

34 Distrain by Tax Collector. Amend RSA 80:2 to read as follows:

80:2 Distrain. The collector may distrain the goods [and], chattels **personal estate, property interest, right, or credit** of such person upon his neglect or refusal to pay the tax assessed upon him.



35 Distraint by Tax Collectors. Amend RSA 80:8 to read as follows:

80:8 Distraint. Upon neglect or refusal of any person or corporation to pay the taxes assessed upon them, the collector may distraint the goods [and], chattels **personal estate, property interest, right, or credit** of such person or corporation. [Such distraint shall be valid only if begun within one year from October first following the assessment.]

### AMENDED ANALYSIS

This bill amends existing state tax laws which are enforced by the department of revenue administration by amending existing and adding new civil and criminal penalties. The bill:

(1) Adds new provisions to protect the rights, privacy, and property of taxpayers during the administrative process of assessing and collecting taxes.

(2) Adds new duties for the commissioner of revenue administration.

(3) Clarifies the time for making returns and declarations.

(4) Adds new provisions for refunds and credits, and revises provisions for late payment charges.

(5) Adds new provisions for an appeal procedure to redetermine or reconsider taxes assessed.

(6) Adds new provisions concerning liens, distraints, and a 3-year statute of limitations.

(7) Adds new criminal penalties by: (a) employing the term "willfully"; (b) penalizing tax evaders; (c) penalizing persons who make false declarations in returns or reports; (d) penalizing tax preparers who fail to turn moneys over to the state; (e) penalizing persons who knowingly operate without obtaining necessary licenses; and (f) amending certain fine and penalty provisions.

Adopted.

SENATOR HOLLINGWORTH: I would like to offer the floor amendment and it's before you, #2496L. What the amendment does is it cleans up a little of the language to make it fit more with the New Hampshire RSA's. When this bill was brought to us, it had taken the federal code and by using some of the terms used in federal code, it was not clear how it would be interpreted in our courts here in New Hampshire. So we tried to clean up that language a little bit by, in one section on page two, you will see where it says willfully neglect or intentionally disregards the statutes. We inserted the word "willful" and we go beyond on the following pages we defined "willful" and we set up standards throughout the bill, but

most of the bill is just minor changes and I thank Senator McLane for her kind words, but the hard work was done by many people and I hope that you can support this because I do think that now it's an excellent piece of legislation and will help our tax collectors get their right people who are purposely evading taxes.

SENATOR NELSON: Senator Hollingworth, it was a little difficult to hear you over here, and I'm looking at page four of the bill. I heard you say that you added the word "willfully", I believe, on all the pages. And I wasn't sure whether K on page four was there and you just added willful as an example as to what you were saying?

SENATOR HOLLINGWORTH: Yes, I believe that that part was willful and that section was added. There were other changes in that section I think, oh yes. In this section it was if someone came to collect revenue from you that if you should somehow impede his endeavor to get your files and I'm not so sure of the exact, maybe if I can find it in the exact bill, if you will just hold one second, Senator.

SENATOR NELSON: I just wondered that a K has always been in place and the penalty for that is a class B felony and that remains the same?

SENATOR HOLLINGWORTH: That's right. There was a change in there, because what it did is if you so much as said an unpleasant word to the fellow who was about to collect your money and I think sometimes occasionally we felt that we might say an unkind word, that that would have been a class B felony. We removed that section in that section and I can't tell you exactly what the word is, because I can't find it, but that is what the intent in that section was. In the section below that, willful was added in two cases where it is in two and it is in four, they had been left out and they have been put in.

Senator Hollingworth offered a floor amendment.

#### **Floor Amendment to HB 428-FN**

Amend the subdivision heading inserted by section 5 of the bill by replacing it with the following:

Refunds, Appeals For Redetermination or Reconsideration,  
Liens, and Distributions

Amend section 5 of the bill by inserting after RSA 21-J:28-c the following:

21-J:28-d Distributions. Upon neglect or refusal of any person or corporation to pay the taxes assessed upon them, the department may distrain the personal estate, property interest, right or credit of such person or corporation.



Amend RSA 21-J:29, II(b) as inserted by section 6 of the bill by replacing it with the following:

(b) In the case of a willful attempt in any manner to evade any tax administered by the department, which attempt would constitute a violation of RSA 21-J:39, II(a), the tax may be assessed at any time.

Amend RSA 21-J:33-b, III as inserted by section 10 of the bill by replacing it with the following:

III. If any part of any understatement of liability with respect to any return or claim for refund is due to the willful neglect or intentional disregard of statutes and rules by a person who is a tax return preparer with respect to such return or claim, such person shall pay a penalty of \$1,000 with respect to such return or claim.

Amend RSA 21-J:33-c, II(a) as inserted by section 10 of the bill by replacing it with the following:

(a) The term "procures" includes ordering or causing a subordinate to do an act.

Amend RSA 21-J:39, I as inserted by section 11 of the bill by replacing it with the following:

I.(a) The term "person", as used in this section, shall include, but not be limited to, an officer or employee of a corporation, a member, officer or employee of a partnership, or a trustee, member or employee of a trust who as such trustee, member or employee is under a duty either to perform or to refrain from performing the act with respect to which the violation occurs. This section shall apply to persons acting in any fiduciary capacity.

(b) The term "willfully", as used in this section, shall have the same meaning as provided in RSA 626:2, IV.

Amend RSA 21-J:39, II(e) as inserted by section 11 of the bill by replacing it with the following:

(e) Aid or assist in, or procure, counsel, or advise the preparation of or presentation under, or in connection with any matter arising with respect to the taxes administered by the department, a return, affidavit, claim, or other document, which the person knows is fraudulent or false as to any material matter, whether or not such falsity or fraud is with the knowledge and consent of the person authorized or required to present such return, affidavit, claim, or document;

Amend RSA 21-J:39, II(g) as inserted by section 11 of the bill by replacing it with the following:

(g) Willfully remove, deposit, or conceal, or direct the removing, depositing, or concealing of any goods, chattels, or commodities for or in respect to any tax which is or is to be imposed, or any

property upon which levy or distraint is authorized by RSA 80 or RSA 21-J with intent to evade the assessment or collection of any tax;

Amend RSA 21-J:39, II(k) as inserted by section 11 of the bill by replacing it with the following:

(k) Willfully corrupt or by force or threat of force, including any threatening letter or communication, endeavor to obstruct or impede an officer or employee of the state acting in an official capacity under this chapter, or in any other way corrupt or by force or threats of force, including any threatening letter or communication, obstruct or impede, or endeavor to obstruct or impede, the due administration of any tax administered by the department. The term "threats of force," as used in this subparagraph, means threats of bodily harm to the officer or employee of the department or to a member of his family;

Amend RSA 21-J:39, II(l) as inserted by section 11 of the bill by replacing it with the following:

(l) When required by any tax law or rules adopted under the authority of such tax law to obtain any license or permit:

(1) Willfully fail to register or apply for such license or permit; or

(2) Willfully sell, offer for sale, or possess with intent to sell, any product for which a license or permit is required without registering or obtaining such license or permit; or

(3) Willfully sell or offer to sell any product for which a license or permit is required to sell such product, to any person required to be licensed who does not possess a valid license issued by the department; or

(4) Willfully operate any business, hotel or restaurant or collect tax without registering or obtaining the required license, or operate any such business, hotel or restaurant after the department has suspended, revoked, or refused to issue such license or permit.

Amend the bill by inserting after section 33 the following and renumbering the original sections 34-42 to read as 36, 37, 38, 39, 40, 41, 42, 43, and 44 respectively:

34 Distraint by Tax Collector. Amend RSA 80:2 to read as follows:

80:2 Distraint. The collector may distraint the goods [and], chattels, **personal estate, property interest, right, or credit** of such person upon his neglect or refusal to pay the tax assessed upon him.

35 Distraint by Tax Collectors. Amend RSA 80:8 to read as follows:

80:8 Distraint. Upon neglect or refusal of any person or corporation to pay the taxes assessed upon them, the collector may distraint the goods [and], chattels, **personal estate, property interest, right,**



**or credit** of such person or corporation. [Such distraint shall be valid only if begun within one year from October first following the assessment.]

### AMENDED ANALYSIS

This bill amends existing state tax laws which are enforced by the department of revenue administration by amending existing and adding new civil and criminal penalties. The bill:

(1) Adds new provisions to protect the rights, privacy, and property of taxpayers during the administrative process of assessing and collecting taxes.

(2) Adds new duties for the commissioner of revenue administration.

(3) Clarifies the time for making returns and declarations.

(4) Adds new provisions for refunds and credits, and revises provisions for late payment charges.

(5) Adds new provisions for an appeal procedure to redetermine or reconsider taxes assessed.

(6) Adds new provisions concerning liens, distraints, and a 3-year statute of limitations.

(7) Adds new criminal penalties by: (a) employing the term "willfully"; (b) penalizing tax evaders; (c) penalizing persons who make false declarations in returns or reports; (d) penalizing tax preparers who fail to turn moneys over to the state; (e) penalizing persons who knowingly operate without obtaining necessary licenses; and (f) amending certain fine and penalty provisions.

Floor Amendment Adopted.

Ordered To Third Reading.

**HB 454**, an act relative to safe deposit boxes. Banks committee. Ought To Pass. Senator Delahunty for the committee.

**SENATOR DELAHUNTY:** HB 454 changes the requirements for opening a safety deposit box. In the event of an unpaid safe deposit box rent, current law requires the presence of the President or Treasurer of the Bank to be present at the time as such safe deposit box is drilled open, along with a notary public who is not an officer or in the general employee of the Bank. Since passage of branch banking laws in other organizations and structural changes the office of the President, Superintendent, or the Treasurer could be present from the office in which the safe deposit box is located. This bill changes the person required to represent the bank from the President or the Treasurer to an officer of the Financial Institution, the presence of a notary public not employed by the Financial Institution which would

still be required. The bill also changes the expiration time from 5 years to 7 years for the delivery to the state of the contents of the unpaid box. So that the time period is consistent with the abandoned property statutes.

Adopted.

Ordered To Third Reading.

### **TAKEN OFF THE TABLE**

Senator Russman moved to have SB 151-FN Taken Off The Table, an act to protect municipalities against liability in the construction and maintenance of highways, streets and sidewalks. Transportation committee. Ought To Pass With Amendment. Senator Currier for the committee.

Adopted.

SENATOR CURRIER: I defer to Senator Russman.

SENATOR RUSSMAN: Well, basically the committee report indicates that there is, this is another effort to limit municipal liability and the issue arises as to because of the previous case that went up to the Supreme Court on that, whether or not this particular bill with the amendment would stand constitutional muster. Some of us have reservations about that, so the issue became whether or not to pass the amendment, send it over to the Supreme Court for an opinion at this point and then bring it back to take a look at, but for the purpose of the committee, it continues to limit the liability of the municipalities in certain areas on roads and highways and a number of acts by municipal employees relative to the maintenance of those highways and byways and basically that is the nature of it.

SENATOR PRESSLY: I seem to be a bit confused. You're replacing 151 with a request of an opinion from the Justices, is that correct?

SENATOR RUSSMAN: Well no. The actual amendment was printed in the previous Senate calendar, that we do not have before us, relative to certain amendments that the committee sought to have. So we don't have that right here in front of us today. Senator Fraser because of his absence, asked me to have it brought off the table and to have it sent over to the Supreme Court with that amendment attached to it because that is what the committee felt with what should become most of the bill. So this is, my understanding is, this is the bill that you have before you, the amendment is not here at this time, and then we have the Resolution asking that it go over. What you have here is a resolution asking that it go over to the Supreme Court for an opinion.



PRESIDENT DUPONT: I could clarify, Senator Pressly, as I said earlier, we will pass the bill with amendment as offered by the committee and immediately lay it on the table. It will still be on the table after our actions, but we have to do that in order to send the question over to the Supreme Court. So the Senate will not, this bill will not leave the Senate's possession, it's merely a formality that we go through to put the question to the Supreme Court.

SENATOR PRESSLY: Then what happens after the decision is announced. It's on the table and it's action dead so?

PRESIDENT DUPONT: After we receive the decision, then the Senate would have to take additional action on the bill to send over to the House. There is a likelihood that likelihood will be after our actions on Thursday, whereby we kill all bills still on the table, we would have to include in that motion an exception for those bills that are, would be over at the Supreme Court. I believe that this is the only one. So we will deal with that in this fashion.

#### **Amendment to SB 151-FN**

Amend RSA 231:90, II as inserted by section 3 of the bill by replacing it with the following:

II. For purposes of this subdivision, a highway shall be considered "insufficient" only if:

(a) It is not passable in any safe manner by those vehicles permitted on such highway by state law or by any more stringent local ordinance or regulation; or

(b) There exists a safety hazard which is not reasonably discoverable or reasonably avoidable by a person who is traveling upon such highway at posted speeds, in obedience to all posted regulations, and in a manner which is reasonable and prudent as determined by the condition and state of repair of the highway, including any warning signs, and prevailing visibility and weather conditions.

Amend RSA 231:91 as inserted by section 4 of the bill by replacing it with the following:

231:91 Municipality to Act; Liability.

I. Upon receipt of such notice of insufficiency, and unless the highway agents or street commissioners determine in good faith that no such insufficiency exists, the municipality shall immediately cause proper danger signals to be placed to warn persons by day or night of such insufficiency, and shall, within 72 hours thereafter, develop a plan for repairing such highway or bridge and shall implement such plan in good faith and with reasonable dispatch until the highway or bridge is no longer insufficient, as defined by RSA 231:90, II.

II. If the municipality fails to act as set forth in paragraph I, it shall be liable in damages for all personal injury or property damage proximately caused by the insufficiency identified in the notice, subject to the liability limits under RSA 507-B:4.

Amend RSA 231:92, I as inserted by section 5 of the bill by replacing it with the following:

**231:92 Liability of Municipalities; Standard of Care.**

I. A municipality shall not be held liable for damages in an action to recover for personal injury or property damage arising out of its construction, maintenance, or repair of public highways and sidewalks constructed thereupon unless such injury or damage was caused by an insufficiency, as defined by RSA 231:90, and:

(a) The municipality received a written notice of such insufficiency as set forth in RSA 231:90, but failed to act as provided by RSA 231:91; or

(b) The municipal officers responsible for maintenance and repair of highways had actual notice or knowledge of such insufficiency, by means other than written notice pursuant to RSA 231:90, and were wilful or wanton negligent or reckless or exercised bad faith in responding or failing to respond to such actual knowledge; or

(c) The condition constituting the insufficiency was created by an intentional act of a municipal officer or employee acting in the scope of his official duty while in the course of his employment, acting with wilful or wanton negligence or recklessness, or with reckless disregard of the hazard.

Amend RSA 231:92-a as inserted by section 6 of the bill by replacing it with the following:

**231:92-a Snow, Ice and other Weather Hazards.** Notwithstanding RSA 231:90-92, a municipality shall not be held liable for damages arising from public highway insufficiencies or hazards, even if it has actual notice or knowledge of them, when such hazards are caused by snow, ice, or other inclement weather, and the municipality's failure or delay in removing or mitigating such hazards is the result of its implementation, absent wilful or wanton negligence or recklessness, of a winter or inclement weather maintenance policy or set of priorities adopted in good faith by the officials responsible for such policy; and all municipal employees and officials shall be presumed to be acting pursuant to such a policy or set of priorities, in the absence of proof to the contrary.

Amend RSA 231:93 as inserted by section 7 of the bill by replacing it with the following:

**231:93 When Municipalities Not Liable.** Municipalities shall not be deemed to have any duty of care whatsoever with respect to the construction, maintenance or repair of class I, III or VI highways, or state maintained portions of class II highways, or highways to public



waters laid out by a commission appointed by the governor and council. Upon any highway or other way with respect to which a municipality is found to have a duty of care of any kind, its liability shall be limited as set forth in this subdivision.

Amend the bill by inserting after paragraph III of section 10 of the bill the following new paragraph:

IV. RSA 507-B:2-a, relative to municipal immunity.

Adopted.

SENATOR PRESSLY: I just wanted to say that the municipalities, I believe agreed that this was the proper way to do this because if they had gone forth with the legislation and it had passed and again they had been caught in an unconstitutional piece of legislation, it would cost them a lot of money to try those cases, so they agreed with us that this was the proper way to handle it.

Senator Russman moved to have SB 151-FN, Laid On The Table.

Adopted.

SB 151-FN, is LAID ON THE TABLE.

### RESOLUTION

Senator Russman offered a Resolution: For the Supreme Court to rule on the constitutionality as the question proposed in the resolution that you have before you on SB 151.

**SR 6**, requesting an opinion of the justices concerning the constitutionality of SB 151-FN.

### SR 6

#### STATE OF NEW HAMPSHIRE

In the year of Our Lord one thousand  
nine hundred and ninety-one

### A RESOLUTION

requesting an opinion of the justices concerning the  
constitutionality of SB 151-FN.

Whereas, there is pending in the senate, SB 151-FN, "An act to protect municipalities against liability in the construction and maintenance of highways, streets and sidewalks"; and

Whereas, an amendment has been proposed to SB 151-FN; and

Whereas, RSA 231:90 as proposed by SB 151-FN as amended would provide a method by which any person may give notice, to a municipality, of a class IV or class V highway's insufficiency and would establish the criteria by which such highway would be considered "insufficient"; and

Whereas, RSA 231:91 as proposed by SB 151-FN as amended sets out the municipality's duty to act upon receipt of such a notice and the liability of such municipality for failure to act in certain instances; and

Whereas, RSA 231:92 as proposed by SB 151-FN as amended would establish when a municipality may be liable for damages arising out of its construction, maintenance, or repair of public highways and sidewalks constructed on such highways and would establish a municipality's standard of care for such highways and sidewalks; and

Whereas, RSA 231:92-a as proposed by SB 151-FN as amended would limit a municipality's liability for damages arising from hazards caused by snow, ice or other inclement weather; and

Whereas, RSA 231:93 as proposed by SB 151-FN as amended would redefine when a municipality would be immune from liability for damages suffered upon certain classes of highways to public waters; and

Whereas, doubt has arisen as to the constitutionality of the provisions of said bill as amended; and

Whereas, it is important that the question of the constitutionality of said provisions should be settled in advance of its enactment; now, therefore, be it

Resolved by the senate:

That the justices of the supreme court be respectfully requested to give their opinion on the following questions of law:

1. Would enactment of SB 151-FN, as amended, result in an arbitrary or discriminatory infringement on access to the courts in violation of Part I, Article 14 of the New Hampshire Constitution?

2. Would enactment of SB 151-FN, as amended, taking into account the benefits conferred upon the general public in limiting the liability of municipalities, result in unreasonable or arbitrary restrictions on the rights of an injured person to recover in violation of Part I, Articles 2 and 12 of the New Hampshire Constitution?

3. Would any other provision of the New Hampshire Constitution be violated by the enactment of SB 151-FN, as amended?

That the clerk of the senate transmit copies of this resolution and SB 151-FN and the proposed amendment to the justices of the supreme court.

Adopted.

## REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills to which was referred:

**HB 402**, relative to placing lime and wood ash on farmland.

SENATOR CURRIER: This amendment corrects a technical error in RSA 48:9-a 7b. as inserted in section two of the bill.



**Enrolled Bill Amendment to HB 402**

Amend RSA 483:9-a, VII(b) as inserted by section 2 of the bill by replacing line 5 with the following: rural river or segment;

Amendment Adopted.

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills.

**HB 103**, relative to the time period for perfection of a purchase money security interest under the uniform commercial code.

**HB 117**, relative to housekeeping changes in the weights and measures laws.

**HB 153**, to regulate the handling of manure, agricultural compost and chemical fertilizers.

**HB 162**, extending the committee studying a statewide trauma care system.

**HB 185**, relative to certain security transactions exempted from registration.

**HB 186**, relative to isolated sales of securities.

**HB 270**, relative to filling and dredging in wetlands.

**HB 351**, relative to personal flotation devices for sailboards.

**HB 375**, authorizing towns to accept donations of property.

**HB 436**, making the purchase, possession, and control of child pornography a misdemeanor.

**HB 478**, relative to the emergency shelter program.

**HB 491**, relative to the collection of the normal yield tax in unincorporated towns and unorganized places.

**HB 516**, relative to library trustee's authority to accept gifts.

**HB 555**, limiting horsepower on Big Pea Porridge Pond.

**HB 597**, relative to licensing of nurses.

**HB 676**, relative to notice of discontinuance of class IV, V or VI highways.

**ANNOUNCEMENTS**

**SENATOR HEATH (RULE#44):** Senate President, and colleagues, I left some unfinished business in here the other day and I want to conclude that. I would first want to thank everyone of you and almost individually everyone of you spoke to me about the redistricting committee and I want to thank you all for your candor and your

support. Some of you told me how stubborn I am and I accept that and in light of that and in light of the number of people who spoke to me, both in this chamber and outside, I can, I think, under the situation reconsider in will, but I can not withdraw the resignation because I gave it, I didn't tender it. But I think that we decided that the question whether the Senate President should have the right to appoint and I believe he does and I would accept it if he does, and I would not hesitate to accept the decision if he chose not to reappoint. I think the present situation is that I have resigned from that committee, but I leave it in his hands and would accept his decision, and I thank you all who spoke to me for the confidence that you expressed and the candor in which you expressed it. I would like to leave it at that point.

SENATOR COHEN(RULE #44): In the last session of the Senate there was some concern raised about the Environmental Protection Agency and the Pease Development Authority, whether or not the PDA was dealing with concerns that had been raised by the Environmental Protection Agency which could possibly impede development. Well as the Senator who is assigned to the Pease Development Authority I'm happy to report that the PDA is meeting concerns that have been raised by the EPA. They're soon conducting a noise study with public involvement, they will be hiring a wetlands consultant soon. They've down sized the proposed terminal, there will not be a second runway and they are developing a traffic study. These are some of the concerns that had been raised by the EPA. I'm pleased to report that there is cooperation, good communications underway between the PDA and EPA. They are working together, the concerns are being addressed and it looks like redevelopment will proceed for the benefit of the Seacoast and for the state.

### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, April 18, at 1:00 p.m.

Adopted.

### RESOLUTION

Senator Currier moved that we adjourn until Thursday, April 18, at 1:00 p.m.

Adopted.



**LATE SESSION****Third Reading and Final Passage**

**HB 53-FN-A**, an act establishing a continually appropriated state park fund and a ski area funding mechanism.

**HB 183-FN**, an act relative to the imposition of fines for securities violations.

**HB 188**, an act clarifying definitions of “investment metal contract” and “investment gem contract” for purposes of securities regulation.

**HB 256**, an act limiting liability of any person, firm or corporation which donates equipment or services to any postsecondary technical training program.

**HB 259**, an act permitting a municipal governing body to assign street numbers.

**HB 330**, establishing a committee to study an office of ombudsman at the division for children and youth services.

**HB 428-FN**, an act relative to the enforcement and administration of state taxes by the department of revenue administration.

**HB 454**, an act relative to safe deposit boxes.

**HB 706**, an act relative to the allowable length of semi-trailers.

**HJR 3**, an act requesting the University Cooperative Extension Service to continue to work with the governor’s commission on the 21st century.

Senator Currier moves to adjourn until Thursday April 18 at 1:00 p.m.

Adopted.

Adjournment.

*April 18, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let Us Pray. Lord, we need a road map through the maze of Bills which affect our own lives as well as the people depending upon their livelihood! In other words, whatever you do unto others, shall be done unto you! Bless us all, Lord!* *Amen*

Senator Oleson led the Pledge of Allegiance.

## INTRODUCTIONS

## COMMITTEE REPORTS

**HB 283-FN**, an act establishing a study committee on the problems of New Hampshire banks and financial institutions. Banks committee. Ought To Pass With Amendment. Senator Fraser for the committee.

**SENATOR FRASER:** This bill creates an all-legislative study committee to look at constant changes in our federal banking laws and the effect that these laws may or may not have on our local financial institution. Part two of the bill, also directs the committee to look at the issue of availability of credit to our New Hampshire business community, the impact on economic development in this state. Part three of the bill has been amended out, Mr. Chairman. This committee felt that with the passage of the collateralization bill and the municipal investment pool, the impact on banking on municipalities was no longer an issue.

**SENATOR NELSON:** I see again another study bill here, to study the problems of the New Hampshire Banks. Do we need a study for that or don't we have a banking Commissioner or a whole group that handle this?

**SENATOR FRASER:** Senator Nelson, the idea of this committee would be to have a proactive position so far, that changes the banking rather than be reactive. During the course of the public testimony it was agreed that at least it would have a vehicle in place to address any problems or any changes in the law that would be promulgated by the Congress.

**SENATOR NELSON:** Senator Fraser, I noticed that absent from this committee is the banking Commissioner or someone representing the banking community. So I was curious if we are going to study the banking community and its problems and financial institutions, why are we leaving off that community and the Banking Commissioner?

**SENATOR FRASER:** Well, the idea was to create an all-legislative committee that would conduct whole public hearings and take testimony from anybody such as from the Banking Commissioner or from any consumer group or anybody who wishes or desires to be heard and issues involving banks.

**SENATOR PRESSLY:** I'd like to indicate to the body that I also asked that question and the choice was made in the committee. That instead of trying to get an expert from every area or any area re-



lated to banking, that it was better as the Chairman explained to me, that the concept of this study is to have it be a totally legislative committee. The legislative committee then can ask any group that seems important to the topic to come in, and so that was the approach to the study.

SENATOR NELSON: I rise in opposition to this legislation in that it is only restrictive to the Senate and the House given in economic times. Given the fact that we do not have the support staff in this body. I think that if we are going to study an area that is under duress, not only on the National level, but at the local level then we ought to include these people in on this committee. I am all in favor in studying it, but I think the committee does not go far enough and I don't see how they are going to solve the problems of the financial community when there is nobody on that group.

SENATOR SHAHEEN: Do you also support the position that we should not include other members representing various sectors concerned about our financial institutions on the committee?

SENATOR FRASER: Yes, I do, Senator. First of all, I had the privilege of serving as Vice Chairman to our Senate President on a similar committee a number of years ago. We took testimony over one summer and I think we met something like every other Friday, if I recall correctly. And we produced a document that I thought had a great deal of merit to it. Incidentally, the Banking Commissioner supports this bill and he testified in favor of it and he did not suggest for a moment that he needed to be a member of the committee. Nor did he suggest that Consumer groups be members of the committee. He just thought it was a good idea to have a legislative committee in place to study the changes that are going on, especially at the federal level. And as I say in response to your question, the reason I support this is because I thought that the committee I served on before had a great deal of merit.

SENATOR DELAHUNTY: When we addressed this issue in the hearing with the Commissioner, the committee also felt that with the changing federal regulations coming down so swiftly we felt that it was very important to have a committee of legislative in place so that we can react when/if necessary to keep up with the changing environment in the finance industry. The Commissioner felt that it was very important to have this committee in place even if it held one or two meetings.

SENATOR PODLES: Senator Fraser, could you tell me why these committee members are appointed by the Chairman of that committee both the House and the Senate?

SENATOR FRASER: No, I can't.

SENATOR PODLES: Where did the bill come from?

SENATOR FRASER: The bill came over from the House and the only amendment that we had in this body this year was the collateralization bill, and we also passed the investment pool bill, municipal investment pool bill. So part three of this mandate was amended out. This bill came over from the House and it was sponsored by Representative Maurice Goulet. I don't think at the time of the public hearing anyone questioned why these people or these appointees were made by chairmen.

SENATOR PODLES: Senator Fraser, would you believe that in this session this is happening that Chairman of committees are appointing members to study committees? This has never been done before, would you believe?

SENATOR FRASER: Senator Podles, I believe it, if you tell me that is true I believe it and I don't think well, if you want to change that I don't have any problem with it. I think that the motion of having all legislative committee in place to deal with the changes that are going on at the federal level is just, extremely important.

SENATOR NELSON: I thank my colleague for his patience and kindness in answering the question. Senator Delahunty, given the economic situation and the fact that we will be paying six legislator's mileage, you will be dealing with complicated banking issues from the federal level. Do you feel that you will have the appropriate staff of personnel to work with that committee to handle the complexities of the issues that will face us over the next two years, given that these banks are in such a questionable status?

SENATOR DELAHUNTY: I have to feel that yes we will, and I think that the committee appointments are done properly and there is no question about it and I think that this question did come up several times with the banking industry that was present at the hearing. Plus, the Banking Commissioner, this legislation, mileage that you are talking about may occur one time during the two years. I think that it probably will be worth its while, so I have to say yes.

Senator Podles moved to Have HB 283-FN Laid On The Table.

Senator Podles withdrew the motion.

#### **Amendment to HB 283-FN**

Amend section 4 of the bill by deleting paragraph III.



**MOTION TO RECOMMIT**

Senator Fraser moved to Recommit HB 283-FN.

Adopted.

HB 283-FN, is RECOMMITTED TO THE BANKS COMMITTEE.

**HB 313**, an act relative to conversion between mutual savings banks, cooperative banks, building and loan associations, guaranty savings banks, savings and loan associations, and commercial banks and trust companies. Banks committee. Ought To Pass. Senator Delahunty for the committee.

SENATOR DELAHUNTY: HB 313 came about as a result of the changes in a federal law. These changes are a result of a savings and loan problem and have imposed severe restrictions on the Savings and Loans Banks. By allowing the banks to convert to Commercial Savings Banks it will allow them to continue to serve the people as they have for the last one hundred and fifty years. They will not do business any differently than what they do now. The Bank Commissioner indicated that the Banks are able to make commercial loans now under the current law, but they don't and there is no indication that even with the name changed that they will do so in the future. The only reason for the conversion is to bypass some of the severe federal regulations that have been imposed on some of those federal loan and savings banks in the Texas area. There was absolutely no opposition for the bill and we also asked a question: if the Commissioner anticipated a fund of loan requests, big increase in the granting of loans with these banks, and the question was answered absolutely not. They really won't change anything, it's just when you get the conversion change with the name only.

SENATOR ST. JEAN: Senator, you mentioned that there are federal laws in place that may affect these very banks that are much more stringent than the New Hampshire law. Could you give us some examples of the federal laws that are in place that this law would do away with?

SENATOR DELAHUNTY: I do not have my notes with me and I really don't think that was specified at the hearing. It is my understanding that these banks have been very successful in our region and have had a successful history. But because of the stigma attached to the Savings and Loan Association in the South and in Texas, particularly in that area, in that region that have had problems because of some of the new restrictions, it is hindering some of their operational functions in our area. By converting to the new name in the Commercial Savings Banks, it gives them an opportu-

nity to come up from under and continue to do business the way that they have. They have been a very stable financial institution. So with the condition of the financial industry in the region, we felt that it was very important that they be able to do that if they so desire.

Adopted.

Ordered To Third Reading.

**HB 704**, an act relative to liquidation under the supervision of the bank commissioner. Banks committee. Ought To Pass. Senator Fraser for the committee.

**SENATOR FRASER:** Under our laws today Mr President, all of the laws address the opening of new banks. HB 704 grants the Commissioner of Banking, with the permission of the Superior Court, to appoint a federal regulatory agency or receiving or liquidating agent and issue an order in waiving or suspending our laws, rules, practices as in policies in order to allow a continuing of banking operations as he seems necessary and prudent. Mr. President, what this bill does is that there was an incident this summer where one of our banks was about to close or in fact it had been closed, or going to be closed on a Friday afternoon. The FDIC had found a substitute, a new bank to takeover the operations of that bank and there was no law in place that would have allowed the Commissioner to waive the rules so far as public hearings, public notices, and all of these sort of things. There was an opportunity to continue the banking of that particular institution without any interruptions. What the Commissioner of banking did, was obtain a proclamation from the Governor to allow this process to occur. What the bill does is to give him the emergency power should the same set of circumstances arise again and I urge this passage.

**SENATOR ST. JEAN:** Senator, if I am not mistaken, a couple of years ago we in the Senate, passed the emergency powers bill for the Banking Commissioner. At that time I thought we gave the Banking Commissioner all the powers that he needed at that time to do what you just outlined to the bank over in the Seacoast area?

**SENATOR FRASER:** That was it, that was the incident, I am sorry.

**SENATOR ST. JEAN:** What I am saying is, two years ago didn't we pass legislation that would have affected that particular situation? I can remember when the Banking Commissioner came before us, we asked him if the legislation "emergency banking bill" was all the powers that he was going to need. At the time if I am not mistaken he said, "yes it was", my question is: why do we need this particular piece of legislation when two years ago I thought we passed legisla-



tion that would have covered anything that would have come down the pike in regard to bank takeovers?

SENATOR FRASER: Senator St. Jean, the only thing that I can envision is maybe the Senate did in fact pass such a piece of legislation. For whatever purpose it is not a law today, because this past summer when the Bank in Seabrook. . . . The Commissioner of banking had to get a proclamation from the Governor to continue to keep the doors open of that bank on Monday morning. He had no emergency power to do that, and that is why this bill is here now. And I can't directly respond to your question except to say, that I am sure it is possible that that legislation area that you are referring to, passed the Senate, but maybe it did not pass the House. He was quite clear that he had no powers and they had to get the proclamation from the Governor in order to affect the transfer.

SENATOR NELSON: I just wanted to ask you a question on the lines of Senator St. Jean. I think his questions are excellent as always. It says the Banking Commissioner shall have the authority to issue, order, waiving or suspending all laws, rules, practices, policies with respect that the authorization to commence or continue banking. Why is this a brand new emergency waiver for the Banking Commissioner of this state? Doesn't he already have the right to this?

SENATOR FRASER: Only under those special circumstances where the Bank's doors are about to be closed. In this particular case the FDIC had found a substitute Bank to take over its operations. It was the Bank in Seabrook that was affected by this and what in fact had occurred, was in order to affect a smooth transition, there be no emergency powers available. The only two things, by the way, that the Commissioner waived was a notice of a public hearing and the time frame. Otherwise everything else was ultimately accomplished. But there was no Bank to take over its operations, because he had no emergency powers. It was the Governor who issued the Proclamation, and that is why they did it. But in the future, this bill will allow the Commissioner, with limited circumstances with permission of Superior Court, to effectuate the transfer.

SENATOR NELSON: That is when the federal agency receiving or liquidating agent . . . can he do this?

SENATOR FRASER: He has the authority of appointment.

SENATOR NELSON: Don't you think we should study under that committee, you just had study all this federal stuff?

SENATOR SHAHEEN: Am I correct, this bill would require authorization by the Court in order for the Banking Commissioner to have those kinds of powers?

SENATOR FRASER: Absolutely!

SENATOR SHAHEEN: How long would that authorization extend, as long as they were under federal receivership?

SENATOR FRASER: I think so, if once the program and law has been implemented. As long as that financial institution is in the hands of the receiver or the liquidator. I would think that these powers would be in effect. I am not sure about that. I think it is permanent.

SENATOR SHAHEEN: I guess that is the question that I have got, I am not clear reading this, how long that applies to the particular institutions, and if it ends when the Bank comes out of receivership?

SENATOR FRASER: No, my answer would be that it wouldn't. What this allows and authorizes the Banking Commissioner to implement, is emergency powers to effect a transition and, of course, the transition. I would assume in a very short period of time would allow the liquidator or the receiver to withdraw because we have new money and new capital and we have a new Financial Institution that is now managing the affairs of that bank.

SENATOR SHAHEEN: Let me try to rephrase the question. It is my assumption, though I guess I am not quite clear, given the wording of the bill, that once that happens that this emergency authority would no longer apply in that particular instance?

SENATOR FRASER: It would be permanent. Maybe I better go back one step. Okay, the FDIC in this particular case, they were the ones that found the substitute bank. Before any of this was adopted the FDIC goes through a very long and tedious process of examining this particular Financial Institution to be darn sure that this institution is qualified to takeover a Bank that is on the brink of insolvency. The Commissioner at this point is passive if you will, until such time that that institution has been approved by the FDIC. Under the law today he would have to have public hearings and notices to all interested parties and all of the other things. Exactly the same as if he was allowing an opening of a brand new bank. But this junction and this scenario as I understood it, that bank that we were talking about was going to be closed at five o'clock on a Friday afternoon and the Commissioner has no powers in order to substitute the new Bank without all of the things he needs to do, when he is opening a new bank. So what this bill goes on to do, is to waive the notice



of a hearing and the notices of the time frames and all of those things for the opening of a new Bank so that a new Financial Institution could step in and takeover and there would be no interruption of services. I think to answer your question, it would be permanent once they're in there and up and running obviously, the FDIC would I assume whoever they appointed as liquidator or as a receiver, would withdraw.

SENATOR SHAHEEN: I think my question is, at that point, I assume all these emergency powers are lost on the Banking Commissioner and all the other previously existing laws kick in relative to public hearings and notices and all that?

SENATOR FRASER: Absolutely. I am sorry I did not understand your question Senator, that is true.

SENATOR ST. JEAN: If I could use a more recent example. The Bank over in Claremont, where that was taken over, how did the Banking or the powers did it use? I think it was Claremont City Bank that was taken over and First New Hampshire did end up with that Bank. Although it was a pass through, did he need this type of emergency powers to handle that situation in Claremont?

SENATOR FRASER: Senator, he never, the only one he uses as an example is the one that took place last summer.

SENATOR COLATNUONO: I appreciate the comments you made in answer to Senator Shaheen's questions as to the intent of what you think the bill means. I am concerned with the drafting of the language of the bill itself, because the emergency waiver section on page 2, does not have a limitation on it and as I read it, would continue indefinitely and specifically with regard to continuance of Banking operations. So I guess my question is: how is the public protected if the new, or whoever is managing the new Bank, the new entity asks and receives benefits from the Banking Commissioner that really are not in the best interest for the consumer and the public? Because the Banking Commissioner has that power to issue those waivers and can do it nevertheless.

SENATOR FRASER: Well if that junction, that financial institution is subject to all the laws and regulations of our banking code today, they would be examined just like any other financial institution. All this bill does is to allow a smooth transition from a dysfunctional financial institution to replace it with a healthy one. It gives the Commissioner the authority to do that without the necessity of a public hearing, otherwise nothing changes.

SENATOR COLANTUONO: I thank the Senators who brought up questions on this bill and I had not had a chance to review it until

now. I am very concerned about the language of the emergency waiver and I think that the fact that it does not have a time limit on it could mean that the Banking Commissioner could exercise these powers long past the time of the emergency in existence, and I am concerned about the language in here where the waiver is given to him not only with respect to commencing banking operations, but to continuing banking operations. I am sure it was probably just a drafting error or not really thought of too well, but I think that we could do a little bit better.

SENATOR MCLANE: Senator Colantuono, don't you think that the word "emergency" by definition carries some sort of time frame to it and that yes, we were under the impression that an emergency is a legally defined phrase and my assumption is that as the Bank got back on its feet, it wouldn't be an emergency anymore, and the regulations would not hold?

SENATOR COLANTUONO: I have always been under the impression Senator, that the title of the section is not really part of the bill and the only thing that becomes positive law, that the Banking Commissioner has to enforce, or any state agency, or any Judge that has to interpret law, are the words themselves. There is nothing in the words themselves on this new waiver that limits it to any type of emergency. That is part of my concern.

SENATOR FRASER: I think now I understand Senator Colantuono's concern and I also understand Senator Shaheen's, and I apologize for not understanding the question. As Senator McLane just suggested, this is purely emergency powers in the event of something that I cited that happened in the Seacoast area. Those powers would be permanent. He could do this again, and again, and again, if that was your question, Senator. In a different environment and if I understand the question, that there is no question that his powers would not dissipate with the adoption of this bill. If he faces several other emergency transitions or titles and that is what this bill is all about if I understand what the question is.

SENATOR SHAHEEN: Yes, actually, I understand that the emergency powers for the Commissioner would go indefinitely. I guess what I am talking about each and anyone in a particular instance when there was an emergency at the Seabrook Bank for example. What is the trigger that then ends his emergency powers so that if other activities go on at the Bank, if there is a merger proposed, if there is something else that happens after the emergency? As I read this and I just asked our esteemed Counsel if he read it the same



way, there is no trigger in this, which then ends in each particular instance. The Banking Commissioner is emergency powers and that is my concern!

### **MOTION TO RECOMMIT**

Senator Fraser moved to Recommit HB 704.

Adopted.

HB 704, is RECOMMITTED TO THE BANKS COMMITTEE.

PRESIDENT DUPONT: Can I have the attention of the Senate at this point in time. It is extremely important I believe for this body, given the considerable amount of misunderstanding I guess is the proper word for what has happened to the budget process in the Legislature. I think it has been something that has been unpleasant for all of us to watch and I feel that it is also of great importance that you all understand the difficulty that we face as a Senate in dealing with the budget that has been sent to us by the House. I am a little uncomfortable with the process; however, I feel that it is extremely important that this Senate, which I think that we are all interested in, given the state that the Senate is going to act responsibly on the budget. That all of you have a clear understanding of I guess, of where the state of New Hampshire is at, at the present time, and this message is not to point fingers or place blame or demean the process that the House went through. To merely try to get in all of us a recognition of how severe the problems are and what our work is going to be like in the next month is going to be hard. We all need the starting point, and I think it is clear that we all have a document that basically would outline where the state of New Hampshire is at the present time. That obviously, is something that I think we need to have so we understand where we are going in the next month and a half as we debate the budget issue. I think it is also important that we as a Senate, send a message to the people of the state, that we recognize not just to the people, but the heads of local communities that we recognize the difficult times that they're in and that we find ourselves in. Since I have been in this body, we have never gone into a committee of whole for purpose of discussing an issue. I have spoken to Senator Disnard and he has agreed that he feels that it would be a good idea and Senator Delahunty as a Democratic Leader and a Majority Leader that we ought to have session, that we ought to go into a committee of the whole, and bring the Legislative Budget Assistant in to explain to all of you the work that they have done so far, and I think we can spend 15-20 minutes or ½ an hour if necessary in doing so. I think just given the fact that we are willing to put the Senate into a committee of the whole for purposes of bringing

our level of understanding up to where we are at on the budget, I think sends a very distinct and clear message to the people of New Hampshire that this Senate understands that we face some difficult times and that we ought to be able to demonstrate some leadership in moving forward on the issues that now confront us. So with that in mind I have asked Charlie Connor to put together some information for each of you, and I have asked him to put together in an easily understood manner, which I think that he has done, and I saw that this morning. And he is here, and I would like all the members to participate in the discussion. So I will recognize Senator Blaisdell and then I will recognize Senator Delahunty.

SENATOR BLAISDELL: I just want to be sure, and I agree with this committee of the whole, Mr. President. And I want to be sure that this is an informational meeting and it is not a debate and our staff is up here to assist anyone of the Senators. And I hope that is how they will take it.

PRESIDENT DUPONT: Senator, as I indicated before, that I am not looking for a solution, I am looking for nothing other than a Senate that would have in his hands, the information that is necessary to understand the problems that the state has, and I do not want to put the blame for those problems on anybody and I am not asking for a specific solution, and I certainly do not want to engage in a debate with Mr. Connor and a debate between the members. We do this merely to have a Senate that will have a clear understanding of the problems that are before us, and I think it will again, as I have said, it sends a message that we want to do what we can do to help resolve our problems and to do that we all need to have the information necessary to make intelligent decisions. So with that I would recognize Senator Delahunty for a motion.

Senator Delahunty moved that the Senate do now resolve itself into a Committee of the Whole to informally consider the financial problems of the State.

Motion Adopted.

The Senate is now in the Committee of The Whole.

President Dupont moves that the Committee of the Whole now rise.

Adopted.

**HB 752-FN**, an act prohibiting merchants from requiring the recording of a credit card number or expiration date as a condition for check cashing or acceptance. Banks committee. Ought To Pass. Senator Fraser for the committee.



SENATOR FRASER: This issue has been around for a long time Mr. President, and it has to do with merchants requiring that they be allowed to record on a check, whenever someone wanted to use a check for payment of services, that they could put on their credit card number and date of expiration. This bill was always opposed by the Retail Merchants Association. This year it was an agreed bill and there was no dispute and no controversy. What this bill says is: that the merchant is allowed to look at the credit card, but he can no longer record the credit card number. Nor can he record the expiration date, and we urge that the bill be adopted.

Adopted.

Ordered To Third Reading.

**HB 465**, an act relative to a veterans' cemetery at the Pease Air Force facilities under the Pease development authority. Economic Development committee. Ought To Pass. Senator Cohen for the committee.

SENATOR COHEN: The committee recommended Ought to Pass. This bill simply allows public and private funds to be accepted for a creation of a Veteran's Cemetery at the former Pease Air Force Base. Of course, the Veterans have given a great deal to the defense of this nation and the Military personnel in Portsmouth have contributed much to the region's economy and to the state's economy. After checking and looking at Pease, and another site, it was determined by the House Committee, that Pease is an ideal location for there to be a Monument to those in the Military that served us. The terrain is suitable. There is a compatible wildlife refuge at Pease, and usable structures, and there is good access for the people to get to the cemetery site. There are 146,000 Vet's in New Hampshire. The Veteran's organizations are united and supportive to the Veteran's cemetery at Pease, as of now, New Hampshire is the only state without a Veteran's Cemetery. Veterans need to travel to Massachusetts to go to the closest Veteran's Cemetery. The Pease Development Authority supports it and the town of Newington supports it, and I believe that the Veterans deserve nothing less.

Adopted.

Ordered To Third Reading.

**HB 492-FN**, an act relative to conservation restriction assessments. Economic Development committee. Ought To Pass. Senator Russman for the committee.

SENATOR RUSSMAN: The committee unanimously votes Ought to Pass on this bill. Basically what it does is that it tightens up some of the loopholes as to what land could be considered for conservation

restrictions and receive that type of tax assessment. Stan Arnold appeared in behalf of the bill saying that the original bill was too loosely drafted, and this narrows it quite a bit and eliminates those loopholes, and the committee asks you to vote in the affirmative, please.

Adopted.

Ordered To Third Reading.

**HB 496-FN**, an act relative to administrative fines for marine pollution. Economic Development committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN:** Then again another unanimously passed bill by the committee. This gives teeth to an existing law so that people that are dumping their boat toilets in the lakes, ponds, and streams would be fined if they were caught doing so. It sets up administrative process for that purpose.

Adopted.

Ordered To Third Reading.

**HCR 3**, a resolution supporting the building of a fire academy. Executive Departments committee. Ought To Pass. Senator Fraser for the committee.

**SENATOR FRASER:** This resolution was unanimously adopted by the Executive Department committee and it supports the idea of a Fire Standards and Training Academy to be funded out, to be constructed by the state.

**SENATOR NELSON:** TAPE INAUDIBLE.

**SENATOR FRASER:** Senator Nelson, I learned that late this morning they referred on the Fire Academy or rereferred our bill to the committee on the vote of 11-8. I have also been advised that there will be some discussion on the floor and I want to keep plugging.

Adopted.

Ordered To Third Reading.

**HCR 10**, a resolution requesting Congress to propose an amendment to the United States Constitution prohibiting unfunded federal mandates. Executive Departments committee. Ought To Pass. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This is a fairly straightforward resolution and asking for Congress to adopt the same or similar language that we have in our article 28-A. Prohibiting unfunded mandates and the committee recommends Ought To Pass.



Adopted.

Ordered To Third Reading.

**HB 120**, an act to standardize the use of tax exemptions and tax credits for property tax purposes. Executive Departments committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: This bill was introduced into the House at the request of the Department of Revenue Administration. Which supportive of the New Hampshire Municipal Association, apparently, historically, the terms tax credit and tax exemption have been used interchangeable, and apparently have created some confusion. The bill drew a distinction that the tax exemption is a reduction from the tax assessment, whereas the tax credits, the amounts of dollars off the property tax bill. The bill is quite lengthy, Mr. President, and the reason for its volume is that over the summer the Department of Revenue Administration did a tremendous amount of research on every credit and tax exemption that has made the necessary changes and I urge its adoption.

Adopted.

Ordered To Third Reading.

**HB 170-FN**, an act to provide immunity to the board of examiners of psychologists, its agents, investigators, and employees against civil actions resulting from disciplinary investigations and proceedings. Executive Departments committee. Ought To Pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill adds the qualified immunity to persons appearing before or serving on the Psychologist Board and it is similar to the language that is already in the registration of the Medicine Board. Similar language that we just passed several weeks ago for the Dental Board and so this puts the Psychologists at parity and allows them to serve on the Board without fear of lawsuits. But it still requires that any statements made or actions taken, be done in good faith in order to get the immunity.

Adopted.

Ordered To Third Reading.

**HB 209-FN**, an act relative to conflicts between the municipal budget law and collective bargaining negotiations. Executive Departments committee. Ought To Pass. Senator Currier for the committee.

SENATOR CURRIER: This bill resolves some conflicts between the municipal budget law and the collective bargaining negotiations. The bill would only affect towns that have adopted provisions of the

municipal budget law. School districts operating under the municipal budget law any precincts whose boundaries or within the boundaries of towns which are operating within the municipal budget act. This bill will not affect cities since the municipal budget act is not applicable to them. It is agreed upon between labor and the municipalities to quote the Director of Municipal Services at the Department of Revenue Administration. This is a winning piece of legislation that lets the parties of the collective bargaining agreement submit the cost that are negotiated and it allows the budget committee to make their recommendations and it provides full disclosure for the voters so that they may have final say in the matter.

SENATOR NELSON: On the second page of the bill, it talks about the cross reference added, special meetings concerning the fact that no budgets can pass and no increase of more than 10 percent except, is this something brand new, something that is needed, something that is added? Why are you doing it, who requested it?

SENATOR CURRIER: What it is Senator, it is a direct reflection of some law suits that have been taking place. Representative Thayer for example, who was a member of the House and also a member of the budget committee in Pembroke. What it has done is it can be taken, my understanding it can be taken to the court, in fact, Pembroke is currently being sued. My understanding is that the provisions as it exist here in the statute, will eliminate that possibility because it outlines the procedure by which each party will be proceeding in the budget process and it would in fact then allow them to exceed the 10 percent.

SENATOR NELSON: I would just ask that if we are telling a town what to do, I was just curious what kind of support this part of the bill had from the cities, excuse me, the towns and that we are dictating to them. I want to make sure the selectmen and the people in these towns know about this?

SENATOR CURRIER: I have been told by two lobbyists from the New Hampshire Municipal Association of which I was a former Vice President of that, they support this bill.

SENATOR COLANTUONO: I have a bit of concern here because oftentimes what happens in school districts that the budget will come in prior to the time that the collective bargaining agreement closed and the school district will pass a budget. Then the collective bargaining group will be adoptive and calling for a large increase in teachers and other employees salaries. Then a special meeting will be called in the middle of the summer when nobody is around and all the teachers will come in and vote for it and then there will be a



tremendous increase in the tax rate. Does this bill facilitate that process by taking away that protection of the 10 percent rule?

SENATOR CURRIER: Senator, I am really not sure if it will cover concern and my assumption is that it will. I don't really have an answer for that.

Senator Nelson moved to have HB 209-FN Laid On The Table.

Adopted.

HB 209-FN, is LAID ON THE TABLE.

**HB 244-FN**, an act establishing a committee to examine whether the state commission for human rights should be authorized to levy administrative fines and award compensatory and punitive damages. Executive Departments committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: The committee made one change in this bill and it is on page nine of the calendar. We took out the reference to study punitive damages because the committee strongly felt New Hampshire has a tradition of not allowing awards to punitive damages. So we wanted the study committee to be aware of that direction. Other than that the bill is the same as it was when it came over from the House. It's simply a study committee to establish if we should expand the rights of the Human Rights Commission to award damages and levying fines that do not have that right now and it impairs their ability to operate in an effective manner.

Recess.

Out of Recess.

#### **Amendment to HB 244-FN**

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is hereby established a committee to examine whether the state commission for human rights should be authorized to levy administrative fines and award compensatory damages.

#### **AMENDED ANALYSIS**

This bill establishes a committee to examine whether the state commission for human rights should be authorized to levy administrative fines and award compensatory damages.

Amendment Adopted.

Ordered To Third Reading.

**HB 292-FN**, an act relative to the real estate tax lien process. Executive Departments committee. Ought To Pass. Senator Currier for the committee.

**SENATOR CURRIER:** This is good bill. This bill amends the real estate tax lien process by requiring only persons with a legal interest with the land may redeem land subject to the tax lien procedure. The bill also changes the fee which the municipality may charge for such notice. It's an agreed upon bill with the Tax Collectors Association, Municipal Association and others.

Adopted.

Ordered To Third Reading.

**HB 368-FN**, an act naming the Parker L. Hancock Building of the New Hampshire state prison. Executive Departments committee. Ought To Pass. Senator W. King for the committee.

Senator W. King defers to Senator Currier.

**SENATOR CURRIER:** This is a bill that is basically very simple and it names a building a the New Hampshire State Prison for Parker L. Hancock, who was a longtime employee of the Prison system and he is being recognized for that recognition.

Adopted.

Ordered To Third Reading.

**HB 484-FN**, an act relative to when electric companies are public utilities and affiliates of public utilities. Executive Departments committee. Ought To Pass. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill gives some relief to, I believe there are only two municipal companies that are in this state that would qualify under this. It takes them out from under full PUC regulation if they merely serve several customers outside the boundaries, but provide all those customers with all the same benefits that they provide the in-town customers. It's a good bill.

**SENATOR SHAHEEN:** Senator Colantuono, can you tell us what two companies that you are referring to?

**SENATOR COLANTUONO:** Well, there is one in Littleton, and I do not remember the second one.

**SENATOR SHAHEEN:** Is there anybody here that could tell me what the other company is, Senator King?

Recess.

Out of Recess.



SENATOR W. KING: Yes, Senator Shaheen, the first one: there are two municipal companies. One is in Littleton, and the other is in Ashland. And each of them serve's a small section of adjoining community.

SENATOR NELSON: I just would like to mention on page two of the bill, the new subparagraph, what it does, it actually means, and who is asking for that new subparagraph. I notice that the bill is amended and that is why I am inquiring?

SENATOR COLANTUONO: The bill was amended by the House at the request of the Public Utilities Commission and that was the language that was added to the bill to close a loophole in the existing law and it is a good amendment.

SENATOR NELSON: Is it a normal procedure that we say such a minority so to maintain substantial control? I do not know what this means in terms of it is so vague, maybe you do, but I do not know what I am talking about so I would like to say, I would like to get some clarification as to what that means, what minority group are we talking about?

SENATOR COLANTUONO: Perhaps we could put this on the table and ask the PUC that question to satisfy your concern.

Senator Bass moved to have HB 484-FN, Laid On The Table.

Adopted.

HB 484-FN, IS LAID ON THE TABLE.

**HB 407**, an act relative to failure to report injuries resulting from criminal acts. Judiciary committee. Ought To Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The members of the House Judiciary voted this out Ought To Pass. The legislature in 1988 established a committee to develop standards for rape protocol. After much hard work that commission came forward with those standards and they have received great praise from those who had to work with the process. The enforcement officers and the medical profession, they felt that there was a valuable element missing and that was to amend our present statutes that required that a person must report if he or she treated a victim of rape or be guilty of a misdemeanor. This bill exempts those who would treat a victim over 18 years of age and objects to the release of such information. But it does retain and keep those records. This bill has the support of the police departments, medical profession, Attorney General, hospitals, doctors. That's it and I hope you can pass this legislation because it is good.

Adopted.

Ordered To Third Reading.

**HB 452-FN**, an act relative to solicitation of prostitutes. Judiciary committee. Ought To Pass With Amendment. Senator Nelson for the committee.

SENATOR NELSON: I am proud to stand up for this bill, it is very simple. It's the result of problems in the Manchester Area. It has the support of Representative Nardi, Burke, O'Rourke, King. Anyway the long and short of this is, this bill was put in as a result of the problems in Manchester. In an effort to clean up the problem of open solicitation of prostitutes. Let me just say it to you very simple ladies and gentlemen, this is an equal rights bill. The bill will make the customer also criminally chargeable. The bill was requested by the constituents and supported by the police both from Manchester and Nashua. It was pointed out at the hearing that this is not just a moral issue, but health and safety issue because of the dangers of STD's, the cost to society could be substantial and I urge you to vote yes.

SENATOR RUSSMAN: Madam, I am sure others could rise for this occasion. And I don't know if I could make you a proposition on this bill, but I am sure we all have our own callings. Does this mean that you are going to give sex away, instead of paying for it, is that the idea here? You can give it away, but you can't pay for it?

SENATOR NELSON: No. This means that a person who pays for it, or agrees to pay, or offers to pay another person, would have the same penalty as those prostitutes, the women who are penalized.

SENATOR RUSSMAN: Well, it affects us all so, thank you.

SENATOR PRESSLY: Would it be fair to categorize your questions as Russman's revenge questions?

SENATOR RUSSMAN: Well, we all get dirty jobs once in a while.

### **Amendment to HB 452-FN**

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

Adopted.

Ordered To Third Reading.

**HB 530-FN**, an act relative to marital arbitration. Judiciary committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.



SENATOR HOLLINGWORTH: The Senate Judiciary Committee passed this out Ought to Pass As Amended. This bill establishes a procedure for arbitration on contested issues that could not be resolved in cases that are being mediated in domestic relations cases. The committee believes that this will help speed up the process and save time and dollars as well as help families during this difficult procedure of divorce.

#### **Amendment to HB 530-FN**

Amend RSA 542:11, I and II as inserted by section 1 of the bill by replacing them with the following:

I. The parties to any contested issues in a domestic relations case in superior court may file a stipulation prior to trial in which the parties and their attorneys, if any, agree to submit the case to arbitration. Upon the approval of the court, said stipulation shall be considered an agreement in writing to submit to arbitration within the scope of RSA 542:1. Filing of the stipulation shall stay the trial of the suit until arbitration has been had in accordance with the terms of the stipulation.

II. The parties shall select an arbitrator who shall be an attorney licensed to practice law in the state of New Hampshire. The stipulation to submit to arbitration shall include the name of the arbitrator.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment Adopted.

Ordered To Third Reading.

**HB 567**, an act relative to step-parent's visitation rights. Judiciary committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: The Judiciary committee heard emotional testimony from a young man that was denied visitation rights to his stepchild because the court interpreted that they did not have the authority to grant visitation rights to him because of our present legislation. This legislation would only make it permissive and it is not mandatory, and neither prohibits, or requires custody to be granted to stepparents. But does allow visitation rights, if it is in the best interest of the child.

SENATOR BASS: Senator Hollingworth, as a former member of the Judiciary committee in the Senate, and I recall that we had a bill either last year or the year before, permitting visitation rights I believe it was for the grandparents and my question to you is: where

does this end? Are we going to have another bill for brothers, or sisters-in-law, or uncles, and aunts? Because an individual comes in with a particular problem do you think that it is justified that we change the law, is this the end now?

SENATOR HOLLINGWORTH: I think that perhaps that it is. This was a very traumatic case. The young man had been there while the child gave birth, while the young woman gave birth. He was a father to that child all through her young years, and only after their separation, was denied visitation and it was as we heard that testimony, an unfair situation. And we felt that if the court ruled that it was in the best interest of the child, then they should have the authority to grant that visitation. Then they interpreted our present legislation and denied that.

SENATOR SHAHEEN: Yes, I want to speak in support of this bill. It seems to me that this is a recognition in changing family structure that we are dealing with in our society. That we can no longer think about families of divorce as being the parent of children necessarily that we are dealing with in situations now. Very often stepparents, as Senator Hollingworth said, have been really responsible for raising children. Therefore, when the court feels that it's appropriate, it seems to me that we ought to be able to be willing to grant those same visitation rights that we are willing to grant to the natural parents.

SENATOR BASS: Senator Shaheen, based upon what you just said, why don't we just enact legislation authorizing the courts to allow visitation rights for anybody the court's want to? What is the difference between this and given the structure of the tenure of your speech, why don't we go ahead and do that? This is an observational question, not interrogatory.

SENATOR SHAHEEN: Well, and perhaps that is something that ought to be looked at. I guess my feeling, as I said, because family structures are different than they may have been when most of us were growing up, we ought to be responding to that change.

#### **Amendment to HB 567**

Amend RSA 458:17, VI as inserted by section 1 of the bill by replacing it with the following:

VI. In making any order relative to such custody, the court shall not give any preference to either parent of the children because of the parent's sex. The court may take into consideration any preference shown by said children. If the court determines that it is in the best interest and welfare of the children, it shall in its decree grant



reasonable visitation privileges to a party who is a stepparent of the children or to the grandparents of the children pursuant to RSA 458:17-d. **Nothing in this paragraph shall be construed to prohibit or require an award of custody to a stepparent or grandparent if the court determines that such an award is in the best interest of the child.**

Amendment Adopted.

Ordered To Third Reading.

**HB 756-FN**, an act relative to victims' bill of rights. Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill was put in at the request and actually drafted by the very hard working Attorney General's Office Victim Witness Advocate. They did a very good job on the bill. It sets out a bill of rights for persons who are victims of crimes which are felonies actually, and it sets out what rights those victims should have going throughout the court process. The committee amendment is on page nine. We took out one set of rights that we didn't feel that was appropriate and we also made a specific reference of the law of restitution and law in compensation which already are included in the state law. We did not want it to create any new right of restitution or compensation. There was a third amendment that the committee made and voted upon, and somehow didn't make it into the calendar. That is being distributed as floor amendment #2547L which I request that the body adopt after it adopts the committee amendment in the calendar.

#### **Amendment to HB 756-FN**

Amend RSA 21-M:8-k, II as inserted by section 2 of the bill by replacing subparagraphs (j)-(u) with the following:

(j) The right to restitution, as granted under RSA 651:62-67 or any other applicable state law, or victim's compensation, under RSA 21-M:8-h or any other applicable state law, for their losses.

(k) The right to be provided a secure, but not necessarily separate, waiting area during court proceedings.

(l) The right to be advised of case progress and final disposition.

(m) The right of confidentiality of the victim's address, place of employment, and other personal information.

(n) The right to the prompt return of property when no longer needed as evidence.

(o) The right to have input in the probation precedent report impact statement.

(p) The right to appear and make a written or oral victim impact statement at the sentencing of the defendant.

(q) The right to be notified of an appeal, an explanation of the appeal process, the time, place and result of the appeal, and the right to attend the appeal hearing.

(r) The right to be notified and to attend sentence review hearings and sentence reduction hearings.

(s) The right to be notified of any change of status such as prison release, permanent interstate transfer, or escape, and the date of the parole board hearing, when requested by the victim through the victim advocate.

(t) The right to address or submit a written statement for consideration by the parole board on the defendant's release and to be notified of the decision of the board, when requested by the victim through the victim advocate.

Amendment Adopted.

Senator Colantuono offered a floor amendment.

SENATOR COLANTUONO: I move the adoption of the floor amendment #2547L. This simply adds the sentence at the end of this amendment: Nothing in this section shall be as construed as creating a new cause of action or new remedy or right for a criminal defendant. The purpose of putting this in there is to make sure that once we pass the victims bill of rights, if some reason that any right was not given to a victim throughout the criminal prosecution process, a criminal defendant could not come back and ask the court to redo the sentencing or a trial or anything like that. The last thing in the world we want to do is give a benefit to a criminal defendant in passing this legislation.

### **Floor Amendment to HB 756-FN**

Amend RSA 21-M:8-k, III as inserted by section 2 of the bill by replacing it with the following:

III. Nothing in this section shall be construed as creating a cause of action against the state, a county or municipality, or any of their agencies, instrumentalities, or employees. Nothing in this section shall be construed as creating any new cause of action or new remedy or right for a criminal defendant.

Floor Amendment Adopted.

Ordered To Third Reading.

Recess.

Out of Recess.



Senator Delahunty in the Chair.

**HCR 9**, an act relative to universal access to health care. Public Institutions, Health & Human Services. Ought To Pass. Senator J. King for the committee.

**SENATOR J. KING:** With the rising cost of insurance for the individual, business, and for those people who don't have insurance, the sponsor felt this would be a good way of notifying from the General Court of New Hampshire to urge the Congress to enact a National Health Program as a resolution.

**SENATOR BASS:** I rise in opposition for the committee report of Ought to Pass. This is basically a political statement, nothing more than that. And it does not have any force of law or anything else. What we are doing in effect here, is sending the President of the United States, 10 months before the presidential primary in New Hampshire, a message that the legislature believes that a National Health Program is a top priority. In that resolution it says that the following characteristics have to be considered. Universal access, comprehensive benefits, financing based on ability to pay, cost containment, fair payment to providers. This is in my opinion, sort of classic feel good resolution. It does not mean anything, and won't do anything, but the fact is, that I feel that it is seriously flawed in one major respect, and that is that there is no mention anywhere in this resolution to how this program will be paid for. As I sat through the public hearing and I listened to one person testify after another. This was going to save the state a lot of money, but the fact of the matter is that it says nothing in this resolution as to who will pay. The fact remains that if the President received this message from us and simply said let's do what New Hampshire wants and we will pass a law that mandates Universal Health Coverage and if you are employed your company will have to pay for it. If you work for the state then the state will have to pay for it. If you don't have a job the state will still have to pay for it. That conceivably could happen, so in effect we are calling on the U.S. Government to do something and we are not providing any advice in any respect in how it will be paid. I don't really feel that this resolution should pass and I urge the Senate to overturn the committee report to Ought to Pass.

**SENATOR COHEN:** I would urge a vote of Ought to Pass. I was fortunate enough to attend the seacoast economic summit yesterday. One of the many items that was discussed was that businesses depended on and hurt by, among other things, such infrastructure of roads, education, and the cost of health. They cite that as a very big factor as that affects their ability to do business and locate new businesses and keep doing business and I think for that reason it's impor-

tant that we have a fairer system of who pays for health care. And that right now the system isn't working and it certainly needs fixing as to Senator Bass' questions as to who pays for it. We elect members of Congress, to the House, to the Senate and they look at many items in their budget. I would like to suggest that they see this as a high priority, something that is desperately needed. We are far behind the rest of the world in terms of funding for health care. That they are able to find the funding for this and this would be a prudent investment in our economic future.

SENATOR MCLANE: Senator Bass, you know that I love "feel good" resolutions, but isn't it true that the testimony about this resolution pointed out the high cost of our inadequate health care structure now? Perhaps there may be some cost savings as well as some cost under a study of Universal Access to Health Care.

SENATOR BASS: I would respond Senator McLane, by saying that most individuals that testified, indicated that there will be cost savings if the federal government took over portions of the health care system in this country. There isn't a single word in this resolution that says that they would take care of the cost. All it does is say that it is an important thing for the federal government to be doing without reference to the fact that I see the passage of this thing is potentially exposing the state to liability, not cost saving. It's quite the contrary, and I will also respond to Senator Cohen's question about the economic summit. What would those people in the economic summit feel if they were in fact called upon by Congress to bear the cost of such implementation of such a resolution?

SENATOR MCLANE: In all due respect, I think that you missed the point of my question and perhaps the word of investment is a good one to focus upon in line seven. I believe that much of the testimony was to the present cost of the fact that 27 percent of people in this state are not covered by health care. That it is costing us all money in their lack of preventive health care.

SENATOR MCLANE: I can not agree more strongly with you that it is a tragedy that force poorest people in our society who do not have access to adequate health care. I am not debating the issue itself, I am simply debating the question which is: is this really a responsible thing to be doing? It makes us feel good to be saying that we think that this is great, but the effect is nothing except to the extent that it leaves us open to having to account for legislation which may be passed in the future which we may regret. It may have the opposite effect at least in terms of the cost saving aspect of this that was relayed to us by those individuals that testified that day.



SENATOR ROBERGE: Senator Bass, do you feel that this particular piece of legislation might lead to socialized medicine?

SENATOR BASS: Senator Roberge, I can't answer that question because I don't believe, that is a difficult question to answer. That is drawing a conclusion that isn't really in this resolution. I was alarmed by the words National Health Program used as part of the resolution that I think that the membership would have drawn their own conclusion from that.

SENATOR W. KING: I rise in support of HCR 9, in response to what Senator Cohen said earlier about the economic importance of the cost of health care and Senator Bass' response to that I think that is important to know that the United States of America, today spends 10 percent of its gross national product on health care costs. Thirty five million of our citizens in this country are without health care or without any kind of protection and we end up paying for those citizens when they have to be hospitalized through the health care cost of business and other people. In Canada, 6 percent of the gross national product goes into health care and not one person is without access to adequate medical care in Canada. I am not saying that the Canadian system is a panacea, what I am saying is that we need to aggressively seek out ways that we can make sure that every American gets health care and the cost of that does not end up being borne by the small group of people who are paying for insurance premiums. This resolution does not propose a solution, it says we are eager to have Congress get down to the business of looking of reform of our National Health Care system. I urge you to vote for it.

SENATOR NELSON: Do you feel, Senator W. King, that by passing a resolution that this is an aggressive measure of helping people get health care?

SENATOR W. KING: Senator Nelson, that is not what I said. What I said was that this is a message to Congress that says they should get aggressive in seeking out solutions. We are not in a position here where we can make the determination of what is the best system to have in the United States, to provide reasonable and adequate health care to all of our citizens. But Congress is in that position, because they have the information available to them.

SENATOR NELSON: Let me say this, do you believe that I don't see that Congress should get aggressive in this resolution? Secondly, if the United States is already paying 10 percent for health care costs in this country and 35 million, who is going to pay for the rest of the Health Care cost for this Universal plan? Who is going to pay for this?

SENATOR W. KING: Senator Nelson, you are making the assumption that some kind of a Universal Health Care Plan would necessarily cost more than we are currently spending of our gross national product. I have just given you a comparison of Canada where there is not one person who is without adequate health care and they spend less than 6 percent of their gross national product.

SENATOR NELSON: I wasn't looking for a comparison, would you believe that I was not looking for a comparison between the United States and Canada who do many things differently and including education. I am just trying to get at the bottom of this and if you are recommending that we encourage the Congress of United States to have Universal Access to Health Care. My question is specifically, who will pay for Universal Health Care cost in the United State of America?

SENATOR W. KING: We will all pay for the cost of Universal Health Care. I would remind you that you probably face the same problem that my wife Alice and I face, which is health care premiums for \$500 a month. Now that contributes to the 10 percent of GMP cost, staggering health care cost for those of us who can afford insurance, and the fact that there are many people who say if we have a different program for providing health care in the United State, it would indeed cost us less than it does now.

SENATOR MCLANE: Senator King, far from raising the spectre of Universal Health Care and isn't it true that the Medical society appeared in favor of this resolution?

SENATOR W. KING: Senator McLane, if you say that it is true, then I would believe it.

SENATOR SHAHEEN: Yes, I just would like to echo what Senator W. King said, and respond to Senator Bass' statement earlier, about how businesses would feel about paying for the cost of health care. Well the fact is that we all pay right now for the cost of those people who are uninsured. So the only question is that whether we are going to divide it up more equally and everybody will get access to that health care. I think that it is important that we fundamentally believe that everybody ought to have health care in this country and beyond that as Senator Bass pointed out, this resolution really does not say anything else. So why should we pass it? Because government and politicians continually make statements about things that we believe that are important and so even though it doesn't have force of law behind it, I believe that everybody in the United States of America ought to have access to health care.

SENATOR J. KING: I think that at the hearing that one of the persons stated that if it did nothing else, it would probably remind



them out there that there is a difficult problem in New Hampshire and throughout the states as far as health insurance is concerned. I might ask a question of Senator Bass, what would be your alternative except trying to get them off the dead center and getting them moving in some direction one way or another? What is your alternative to the 30 million who don't have insurance or the businesses that are paying for it? I think one of the figures they gave out this year in New Hampshire where it rose from \$28,000,000 in 1980 to \$113,000,000 now, and they said that all the money that comes in on the business profits tax is used and it is not enough to pay for the cost of insurance in New Hampshire.

SENATOR BASS: Well, Senator King, I will remind you of one thing, and I remember one of the sponsors was asked who was going to pay for this program. He said I don't care who pays. I would say if you wanted to get off dead center you would introduce a bill in the Senate to do what was done in Massachusetts a couple of years ago. That is to mandate Universal Health care in the state of New Hampshire that will get you off dead center.

SENATOR DISNARD: Many of us are asked by our constituents what are you going to do about the health care, many of us say that is not our problem. That is a national problem, it's a congressional problem. And I think this bill will send a strong message as Senator King indicating to Congress, that the people of New Hampshire recognize health care, health cost and lack of health care is a national problem. Industry in my area is concerned about the cost and workers are concerned about the cost. We are just saying that we have compassion and understanding and if this passes, just informing Congress that New Hampshire has a concern that they hope they will address it.

SENATOR HUMPHREY: Mr. President, if the Congress acted in a way, acted on the basis of this resolution that the Congress fulfilled the wishes of those who support this resolution. There would only be two ways in which to pay for the expense of this Universal Coverage, and that is by federal expenditures, and that is not going to happen. Not with deficit running 2 to \$300 billion a year. So instead Congress would resort to what is its increasingly, its favorite trick, and that is forcing the business sector to pay for the program that Congress wants to mandate, but does not have the money to pay for it. And that's more than likely what would happen. In the Ways and Means committee today as in general in the Senate we have been agonizing over the effect of increasing the business profits tax. I think most of us recognize that increasing taxes on business especially in a recession is going to be counter-productive in a sense of

destroying jobs and reducing the rates of jobs creation. The very same thing will happen if Congress enacts some kind of Universal Health Care to be paid for by the business sector, but employers health care insurance is very expensive. Typically, even in a group policy it cost, several hundred dollars per month for family group health policy per employee. If Senators want to further destroy or further reduce the rate of jobs created in this country, especially in the manufacturing sector which perhaps is more labor intensive than most. So then pile more costs on business, men, women especially the small business man and women who provide the bulk of the jobs and the more promising jobs in this country. A couple hundreds more per employee and I guarantee they are not going to hire those people. Not these small marginal employers struggling in today's recession environment, this is pie in the sky. You know government can't provide perfection. Yeah, you could provide Universal Health Care if that is your highest priority, but you are going to destroy jobs in the process. I think most Americans would elect first to these jobs, job opportunity so let's try to strike some balance. I think we are struggling to strike such a balance in a realm of health care insurance today. This sort of Universal approach dumping it on the backs or the costs on to the backs of the employers is going to destroy jobs and it would be a very unwise thing for this nation to do.

SENATOR W. KING: Senator Humphrey, would you believe that if indeed such a mechanism was passed by the federal government asking the business to bear the burden of a Universal Health Care plan, that I would bet that Senator Cohen, Senator Shaheen, Senator J. King, and this Senator W. King would join with you and say that was not the right way to do it. That this bill does not say that?

SENATOR HUMPHREY: Well, Senator, somebody has to pay for these dreams and these costs, and it's either going to be the federal government or the government is going to dump the cost on someone else. Unless the Senator can explain to me some third alternative, one has to conclude that one of those two things are going to happen.

SENATOR W. KING: Senator Humphrey, are you asking me a question?

SENATOR HUMPHREY: No, I was responding to your question.

SENATOR W. KING: So it was a radical question then. Would you believe then that a cost for my family alone, a cost of \$500 a month for health care, that if we had a National Health Care plan that I would be paying less for health care than I do today?



SENATOR HUMPHREY: The answer is no, I don't believe that.

SENATOR PRESSLY: Senator J. King, for someone who worked on this bill the discussion that I have heard so far has been primarily some fear of added costs. Yet I notice in the language of the bill that specifically addresses cost containment and I am asking if you could explain to the body, the discussion that took place at the hearing regarding the effort of cost containment as a component of this resolution?

SENATOR J. KING: Well, I guess she has the same idea that Senator W. King just mentioned. If you have National insurance it contains a group rate as always is lower than if you buy it on an individual basis. Even your Blue Cross/Blue Shield, in the State of New Hampshire, if you belong to a group plan it's a lower rate than if you take it out as an individual person. I would imagine if you had it on a National level the same process would be in effect.

SENATOR SHAHEEN: Senator Humphrey, would you believe that the cost of uninsured hospital care, in New Hampshire is an average of \$3,000,000 a year.

SENATOR HUMPHREY: If the Senator has researched that, then I would believe her.

SENATOR SHAHEEN: Then who do you suppose will pick up the cost of that health care?

SENATOR HUMPHREY: Everybody else.

SENATOR OLESON: I rise in support of HCR 9, I speak from personal experience. I have talked to Doctors and I think I have had better medical care back in 1930 than I have in 1991. For the simple reason I had a wise grandmother that could dispense certain services and most people now don't have grandmothers in the house in order to take care of these certain things. I think that all the resolution says is this should be considered. And it seems to me that we could run all over the world and spend billions of dollars bringing corrective actions against certain people. But we have a percent of our own people right here in the United States of America, and they can't be exposed to proper medical care. That happens to be a fact. And I think it is a shame. And I think it is a shame when the United States of America, even on infant mortality, down on the list is third as the third rated countries. All this does is keep the problem exposed to our people that we have a problem and it is a continuation problem. Maybe this won't cure it, but at least let the people know in the United States of America that the New Hampshire people are concerned about the ill medical care that we have here in the United States in certain instances.

Senator Colantuono requested a Roll Call.

Seconded by Senator W. King.

The following Senators voted Yes: Oleson, W. King, Hough, Disnard, Blaisdell, Pressly, J. King, Shaheen, Hollingworth, Cohen.

The following Senators voted No: Fraser, Dupont, Currier, Roberge, Bass, Nelson, Colantuono, Podles, Humphrey, Russman, St. Jean, Delahunty.

Yeas: 10

Nays: 12.

Ought To Pass Motion Fails.

Senator Dupont moved Inexpedient To Legislate.

The Inexpedient To Legislate motion is Adopted.

Paired votes: Senators Heath and McLane.

**HB 203-FN**, an act relative to the confidentiality of quality assurance records of community mental health centers. Public Institutions, Health & Human Services committee. Ought To Pass. Senator J. King for the committee.

Senator Hollingworth moved to have HB 203-FN, Laid On The Table.

Adopted.

**HB 203-FN**, is LAID ON THE TABLE.

**HB 221-FN**, an act relative to respite care for Alzheimer's Disease. Public Institutions, Health & Human Services committee. Ought To Pass. Senator Bass for the committee.

### SUBSTITUTE MOTION

**SENATOR BASS:** The vote of the committee was actually Inexpedient to Legislate and it is misreported here in the calendar. I would like to urge that the Senate defeat the pending motion of the Ought to Pass and I will make a substitute motion of Inexpedient to Legislate.

**SENATOR NELSON:** I would just like to know why you would like to do this, why does Senator Bass want to do this?

**SENATOR BASS:** Senator Nelson, there are two bills before us today dealing with Alzheimer's. This particular one eliminates the \$900 cap per eligible person for Respite care for Alzheimer's. As you may recall we passed this measure originally a couple of years ago and the reason why we placed the \$900 cap was that remembering



now that respite care is not the same as direct care. This is help for those individuals who are involved with a Alzheimer's patient. The reason we did it is we wanted to spread as much help as we possibly could amongst as many people as we possibly could. The people around those individuals who are afflicted and now we have a bill before us to eliminate that cap, the result of that is going to be a few individuals receive considerably more care and other individuals receive none whatsoever. As a result of that we will be confronted with a request for a substantial increase in the budget. The individuals that testified before the committee indicated that there were a handful of families that might require more assistance than \$900, but that assistance was being given through other avenues, private and other. The committee felt that it might be unwise not only for all the individuals who are receiving coverage that it would put them at risk if the program ran out of money and put pressure on us to increase the budget. That is the reason that the committee reported this bill out the way that it did.

SENATOR NELSON: Would you believe that the reasons that you gave are based on suspicion and I was wondering if you had any facts and you just said that this could happen or maybe it would happen or this would happen?

SENATOR BASS: Well, Senator Nelson, any time we pass a bill there is always . . . and if because we are talking about doing something in the future on this and I can only return to my recollection of the original debate in which this body defended the \$900 cap with the information that I gave you in the answer to your previous question. Indeed there are suspicions and that is true of all legislation that we consider.

Division vote requested.

Yeas: 10

Nays: 19.

Ought To Pass Motion Fails.

Senator Bass moved Inexpedient To Legislate.

Inexpedient To Legislate motion is Adopted.

**HB 255-FN**, an act establishing the New Hampshire foundation for mental health and the mental health foundation fund. Public Institutions, Health & Human Services. Ought To Pass. Senator McLane for the committee.

SENATOR MCLANE: This bill allows the establishment of the New Hampshire foundation for mental health similar to the children's trust fund. It would allow the state to encourage private people to give money to a foundation to encourage good mental health practices at the State Hospital and in the various clinics.

Adopted.

Ordered To Third Reading.

**HB 396**, an act relative to filing reports in court proceedings involving children. Public Institutions, Health & Human Services. Ought To Pass. Senator J. King for the committee.

**SENATOR J. KING:** This bill is relative to filing reports in court involving children. The bill requires that all reports, evaluations, and other records in dealing with the Division of Children, Youth Services, Counselors, and Guardian Ad Litems, and so forth, be filed at least five days before the court hearing. This will allow the lawyers, guardians to read the report and it will speed up the process and hopefully if there are any problems with the report that are read they can check them out and verify them beforehand and not have to continue the court session.

**SENATOR COLANTUONO:** Again, I just saw this bill again today, and have not had a chance to talk to any of the other Senators about this. With someone who has had experience in this area in our courts, I can tell you that this bill might be a good idea, but it is simply not practical. There are oftentimes when a person who has to file a report with the court doesn't even know it five days prior to the hearing. You can be appointed as a Guardian Ad Litem, by the court for a child for an upcoming hearing that might be less than five days away. That happens many, many times and the DCYS they are overworked and they have huge caseloads and oftentimes it is impossible for them to get a report in within five days. While I commend the thought behind the bill and the purpose of the bill, I can state from personal experience and say that this is not a good bill and I would urge this to be defeated.

**SENATOR NELSON:** You just gave us an example of what it is like as an attorney who has to go through this process. What is it like for the people on the other side who have to wait for the reports and all of this or does it affect anyone else or is this just a bill for Attorney's or will affect the people in the court's?

**SENATOR COLANTUONO:** I think the intent and the sponsor is an attorney and I believe, and I think the intent of it was to give all parties more time to look at the report and digest it and so forth, before they have to go into court. Under the present system certainly nothing important would go forward without, of course, being filed. And it's oftentimes that reports get filed on the date of court. As long as the court has the report in front of them and give people ample time to read them and digest them before the court acts. I don't see a problem with the due process and so forth. I am just concerned that it is not a workable bill.



SENATOR NELSON: Am I to understand that one attorney is in support of the bill and in favor of it? Then there is another attorney says there is a problem with it?

SENATOR COLANTUONO: That appears to be the case.

SENATOR PRESSLY: Senator, I have a series of questions if I may, Mr. President. This five days that you have plugged in here, is this unique only to this one particular type of evaluation? Is five days the customary requirement for other types of court proceedings?

SENATOR J. KING: At this time there is no requirement at all for when you have to have it in there. What they are trying to do is get the report there so when they show up on the day of the hearing they won't have to or this is basically dealing with the District Courts. I know in some of the courts today in past experience the reports had to be in beforetime. If there was some emergency where you could not get the report done and then there would be no problem they would understand that. I think this here, and if you can set the thing it should be there five days before I think you will find out it is going to get there five days before. If you don't you are going to have the same situation, continuance, and people going back and forth and getting witness and if you need any and so forth. Personally, I think having dealt with some of these filing reports in the past that it could do no harm and can do a lot of good.

SENATOR PRESSLY: What confuses me is I have assumed that is the case in all court proceedings that reports are coming in and both parties are waiting for evaluations and reports. Is there any particular reason that you have singled out the Division of Children and Youth Services, and Counselor's, and Guardians Ad Litem, and why is this only for court proceedings involving children? If it is good to have these things five days ahead why not true for all court? My concern is you're singling out children and I would like to know why they have been singled out?

SENATOR J. KING: They have been singled out because the DCYS that deal with all the delinquent, neglect, and abuse, and every case they deal with, it's all in the District Court.

SENATOR PRESSLY: But why this issue, and if you think in a court proceeding that both parties should have five days to read the report why have you confined this only to children, why haven't you said that all reports for all court cases should be in five days ahead?

SENATOR J. KING: The sponsor did not say, but I would imagine there is no problem in other cases and there is a problem here. So he is trying to address the problem going into court not having the

report there, and not having a chance to read the report, and not have a chance to check with victims, not having a chance to check with the report that if it is correct or incorrect. If you don't you have to either call people and sit around there or you have to postpone it which means another court date.

SENATOR PRESSLY: I appreciate the concern of the committee on the problem with the delay and some of the problems with the court proceedings. So I know that you have struggled with this and I have been struggling with this also having just learned of it. The last sentence on page two says failure to comply with any of the provisions of this section shall not be grounds for dismissal of petition. So what sort of enforcement do they have if you're saying they must have it in five days ahead of time, what is going to happen if they don't?

SENATOR J. KING: They can't dismiss the case. This is specific in here, but the hope is what the judge is calling for is the possibility that there is a good reason why it isn't there, the judges judgment will be used. So there is no need of dismissing of the case. What they are trying to do is expedite the matters and get so that you do not have to carry it from one hearing, to another hearing, to another hearing.

SENATOR PRESSLY: Senator King, would you believe that my concern is for the safety and the quality of court proceedings for our children. Would you believe my questions are just to make sure that we will be assured that what we have is what we get, thank you.

Adopted.

Ordered To Third Reading.

**HB 397-FN**, an act relative to persons afflicted with Alzheimer's Disease.

Public Institutions, Health & Human Services. Ought To Pass. Senator Oleson for the committee.

SENATOR OLESON: This is a very simple bill and nevertheless, it may be one of the more important bills when it deals with certain needs to people in our society. At the present time when you go to a doctor he diagnosed two other persons who might have Alzheimer's, outside the only thing that they get from him, to an extent, is the bill for services, but nevertheless, I think the study committee should be able to come up with ideas that when it is diagnosed the doctor will be able to tell you where this person can be placed when the needs is. Of course, Alzheimer's is a slow deterioration and sooner or later they will need 24 hour care. I would like to see the study



committee set up, that will resolve this problem and at the same time it might expand their efforts and also have a focal point some-ways in the health department, whereby people have someone in their family that has this disease where they can answer certain questions in regard to replacement costs, and what is expected of the one with the disease, and also the caretaker. As I repeat myself, I think this is one of the more important bills, and I urge the rest of the Senators to vote Ought to Pass.

Adopted.

Ordered To Third Reading.

**HB 433**, an act establishing a developmentally delayed category. Public Institutions, Health & Human Services committee. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** Presently, a child which is 25 percent or more behind the chronological age development is shoehorned into another one of the eleven categories of disabled. They are asking to describe the unique needs of a child who is behind in their chronological age development. They don't fit in very neatly into the other categories. Twenty four other states have this optional pre-school category. It would increase the number of handicapped children because they are now classified in another section.

Adopted.

Ordered To Third Reading.

**HB 672-FN**, an act relative to standards for fire safety for community living facilities. Public Institutions, Health & Human Services committee. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** A community residence is usually a private home that has fewer than three mostly developmentally disabled people in it. Currently there are 348 of these community residences and they serve as homes to 589 developmentally disabled people. Every once in awhile the division of the developmentally disabled discovers that the local Fire Marshals are holding these family homes to higher standards than others, perhaps not necessary, and there was one statement about why they have to have some standards. Two exits, fire alarms, but there was an instance when they tried to make them have a outside exit or stairs going down the outside and when they tried to make them have hard wiring put in and sprinkler systems. The request here is that the Division be allowed to set their own standards for fire protection and this bill was requested by the division of mental health and developmental services.

Adopted.

Ordered To Third Reading.

**HB 702**, an act relative to designated smoking sections in certain buildings and offices. Public Institutions, Health & Human Services committee. Inexpedient To Legislate. Senator Podles for the committee.

SENATOR PODLES: HB 702 designates a smoking section in office buildings that are owned, leased, or funded by the state or federal government, if requested by at least 25 percent of employees. By reinstating the smoking, designating as this bill requires, the employees that are using the building will not be given the protection provided for in the New Hampshire indoor smoking act that we just implemented in January of this year. Passage of this bill would be a step backward and the committee recommends Inexpedient To Legislate.

SENATOR COHEN: I would like to add my support to this particular position and I think that neither the state or the federal government should be in the business of subsidizing anybody's addiction to this deadly and dangerous drug.

SENATOR MCLANE: Senator, do you think that former Senator Krasker would be very proud to hear that you are making this speech today?

SENATOR COHEN: I would imagine that she might be.

Committee Report Adopted.

**HB 100**, an act clarifying when a school bus driver must pull over to let other drivers pass. Transportation committee. Inexpedient To Legislate. Senator Oleson for the committee.

SENATOR OLESON: The committee felt that the bus drivers and most of our buses are loaded down with teenagers and preteenagers. They are being harassed well enough without loading down with more rules and regulations. But at the same time if anybody wants to read the bill it is loaded with yes, shall's, and must's. At the same time, there is nowhere in the bill where if they don't abide by this, must, and shall's, that there is any kind of penalty. We think that this is unenforceable and that if there is that large a problem, and then at least the bill should be rewritten.

Committee Report Adopted.

**HB 114-FN**, an act relative to the date for terminating the motor vehicle emissions inspection program. Transportation committee. Ought To Pass.

Senator Pressly for the committee.



SENATOR PRESSLY: This bill extends the date of the termination of the motor vehicle emissions inspection program from December 31, 1991 to December 31, 1993.

SENATOR SHAHEEN: Senator Pressly, can you tell me why that is the choice, 1993 is the date?

SENATOR PRESSLY: The current date is 1991 and it is just an extension of two years.

SENATOR SHAHEEN: Why particularly a two year extension, rather than a one year and or a four year?

SENATOR PRESSLY: Well, there was testimony that this whole issue is in a position of change. We as a governing body are currently waiting for the federal guidelines just for the newly passed environmental air quality legislation federally. So there may be some other things that will happen in the meantime. There was also some testimony that the emission control has improved the air quality, but it is still not keeping with the EPA and there was also some discussion on that type of what they were looking for in air quality may change with the new regulation. Previously they have only been looking for the exhaust from the emission of cars. Now they are also concerned about ozone. So given the situation that we do not know at this time that we should know soon what the federal EPA guidelines will be, that it would be best just to keep things as they are. There was also explanation that there is a House bill to change the boundaries of this that is now being held in the House. So this seemed to be the wise thing to do. But the committee was fully aware that there could be some changes in the boundaries in the next year or so.

SENATOR COLANTUONO: Senator, I think you and I are probably one of the few in this body who have to have our cars inspected. Was there any discussion in the committee of why this discrimination is being allowed to continue in this state?

SENATOR PRESSLY: Senator Colantuono, I share your feelings because when this did become enacted I felt the very same way that you did. It was a very discriminatory effort and it affected only 12 cities and towns. However, it also came out that really those 12 cities and towns have already gone through the transition. Maybe we were the guinea pigs. There was also testimony that that program has been fine tuned, that it appears to be taken for granted now that the pain of having to have this implemented is over and that the citizens have become accustomed. However, the testimony was very clear that our brother and sisters in the body might be preparing themselves for some similar pain because the testimony that it was very

clear that they are literally waiting for the latest results on the EPA and there is a very strong possibility that the state will in fact have to expand instead of diminish the boundaries.

SENATOR COLANTUONO: You briefly touched on this earlier, but can you expound on the testimony concerning whether there has been demonstrable effect of having these emissions. Because if there hasn't, then the question is why bother have the program at all?

SENATOR PRESSLY: The testimony was that it certainly has improved. I think it is a difficult thing to measure because of other improvements. It is impossible to, in fact we have some good jokes in the committee, how do you know that this little space of air, where did it come from? This whole program in getting the air cleaner in this area, there are many things implemented. We are still not at a EPA standard of safety, but we have improved enormously to what percentage can be attributed to this program and it is impossible to say there has been signage change. There have been changes, new highways to try to divert from the congested areas, but things are getting better.

Adopted.

Ordered To Third Reading.

SENATOR MCLANE: I didn't want to take a bill off the table, but I wanted to ask Senator Blaisdell about SB 177. Could I ask a question? Senator Hough, about two weeks ago we had a bill about meals on wheels and due to perhaps some confusion in this Senate, in an effort to make sure that meals on wheels got into the budget. The Senate passed that bill over and that recommendation of your committee and sent it on to the House and Representative Hager was very unhappy with the fact that her committee had to sit for 1 1/2 hours and sit and listen to a lot of argument about why they needed meals on wheels. When they felt that they had put it into the budget and she just felt that she did not need the aggravation. So I am hesitating about drawing SB 177 off the table. But my question to you is: if I want prenatal care, enhanced prenatal care in the budget, how do I get some assurance that it will at least be seriously considered by the Senate? Conveyed to Senate Finance, that is one of my personal priorities and I think many others in this Senate? How do I do that without getting this bill off the table, and passing it, and sending it over to Representative Hager for more grief on their side?

SENATOR HOUGH: I would answer you, there is one way you could do it. You could take it off the table and amend the bill not to appropriate money, but pass the statement as to the extent of the



appropriation that you are looking for, that is one thing that could be done. You want to make sure that the appropriation numbers in the bill drive the continuation of the service there will be, and the other answer is, for what it is worth, both the prenatal and the pari-natal lives will be maintained. The budget that you adopt, if the lines aren't in the way that you want them can be further adjusted. You will find that they will be there and realistically they will be there and there will be a maintenance of best effort and you understand what that means.

SENATOR MCLANE: Not, enhanced.

SENATOR HOUGH: It would be easy to agree that they would be enhanced, but then you, I have 15 pages of enhancement of lives that you and I will support, but I think that we are at a point where we actually at least have a maintenance of effort at least, and incidentally you asked the question, the meals on wheels piece will, when you see it. Regardless of what reaction of the House is, it will reflect on the will of this Senate. I am not quite sure that those numbers are correct as they fit with the existing pieces, but what the intent is would be correctable.

SENATOR MCLANE: Mr. President, instead of bringing this bill off the table and having a vote of this Senate as to the need of enhanced prenatal care. This is a program for every \$1 you put in you get \$3.83 in the first year back. Could I have the assurance of the Finance committee that they will make all effort to realize that prenatal care is one of the priorities of this Senate?

PRESIDENT DUPONT: Senator, I don't know at this point in time whether finance . . .

SENATOR MCLANE: He just answered me and said yes!

PRESIDENT DUPONT: Say yes, Ralph.

SENATOR HOUGH: I will answer that question, but we are looking at emergency medical services, we are looking at promotion, we are talking about disease control, the laboratory, on and on. Enhanced prenatal care I think, immunization, internal child health, special medical services.

SENATOR MCLANE: Are all these things left out of the budget at this point?

SENATOR HOUGH: State program WIC, I am not saying that they are left out, but they need immediate attention to strike the lines at least for a maintenance of efforts. You asked me if Enhanced Maternal Childs Health and I certainly can give you the assurance. We

don't have in one hand the expanding problems, we have a revenue problem. We have a \$100,000,000 nut to be cracked and I could accommodate your desires, and my desires, with minimal enhancement in term in relations to the whole. I don't know how you expect us to, if this is your second priority, I can support and you have a third, as I do, and a fourth. Two years ago you gave us prioritized lists with values and I think with the record, if you check, would indicate even you indicated that you were more successful than you anticipated.

SENATOR PRESSLY (Rule #44): I think that the debate that has taken place demonstrates what is also for me a major frustration. I know the Finance Committee is working very, very hard with the budget and through the debate on the chamber we also know that there are many of us who feel very strongly about particular programs. We experienced once before where this body made a strong, strong message to the Finance Committee telling them no matter what you do we want this particular program in. So it is difficult to know what Finance expects of us and we expect of Finance. When we took the other approach of saying yes we want the meals on wheels in, I felt that we got a little chastised and got a slap on the wrist because you felt that we were, or you seemed angry that we would make such a strong statement. I, too, care a great deal about this program and any of us who have worked with these programs know that the enormous tragedy when the dollar is not spent. It's not only \$3.83 it's a child with a lot of problems that a \$1 is not what is going to really cure. So although you can not give us a promise, can you give us a promise that you will let us know if you are going to cut it? Will you let us know so that we don't in the final stages of the budget which is a very hurried, and find out that some of these programs that many of us feel very strongly about are cut? Could you give us something to go on?

SENATOR HOUGH (Rule #44): I appreciate the question and I will tell you that since Thursday, the last I have been trying to bring in to focus exactly what we have before us in terms of Human Services and Education. That has nothing to do with the ability of the Executive to make cuts and lets, as far as I am concerned that is not an issue. When I have completed what I am working with, it is my intention as I indicated to Senator McLane to sit down with you or anybody else to revisit so that I can identify what I consider the holes in the swiss cheese, and I would hope that everybody would be brought into focus and I certainly entertain any suggestions, but I think that would find that those holes in the swiss cheese, if you will, your position will not be different than mine. We will try to make sure that we will plug as many as we can, that is maintenance as



opposed to enhancement. If we can do some enhancement this becomes number two. And there was no problem with meals on wheels, but what has happened is that you have not seen the Senate position in the budget on meals on wheels and the activity I wouldn't have great faith in what you are doing, continuance. So the Senate's meals on wheels in the budget will reflect what is in the House, plus what is in the document and you will know it and see it. You could discuss specifics now with me, but I would suggest within two weeks we will be able to thoroughly review the Human Service activities and you're certainly welcome to participate.

SENATOR MCLANE: Mr. President, if this body leaves SB 177 on enhanced prenatal care on the table, could it be clear in the record that this in no way shows that we don't think that this is a priority item? Just as the process works out we will have to trust to the Finance committee to reflect our priorities.

PRESIDENT DUPONT: Senator, I think that record is clear in this body so far as their support for this type of programs, and I believe that the rule 44's which will be in record will indicate that and I have had some discussions as you know during the last few weeks with Senate Finance about the process, and clearly where there are going to be areas where I think that it is imperative that members of the body who have specific concerns, to sit down with Finance and discuss those concerns.

SENATOR PRESSLY (Rule #44): I would like the record also to reflect, Mr. President, that I am agreeing that this issue be left on the table only because I feel that I have been assured publicly by the members of the Finance committee that there will be, this will be considered that we will be notified as to the position of this program and by leaving it on the table means that it is still in the budget in the Finance committee.

SENATOR HOLLINGWORTH (Rule #44): I did not intend on getting into this long discussion because I know everybody is tired, but since this is my bill I feel that I should address it and I would like to say that I believe that the Senate will do the right thing. That this is not the last word that we are going to hear on this prenatal question I am sure, and it is going to be in the budget am I correct in assuming that? I think that at that time we could take appropriate action if we think that there is not adequate funding to increase that so therefore I'm not going to move to take that off the table. I am going to do what Senator Heath, and Senator King, and Senator Hough, and Senator Blaisdell to do in the past. On this one I am going to trust them because I think they know the sentiment of this body how strongly we feel about that area, and I think we can be assured that

they will see that is funded and what our task is to make sure that we have the revenue to help them do that task. And I am going to set about doing that, so at this time I will not ask if this will be taken off the table. I hope that the rest of you will accept that.

### **TAKEN OFF THE TABLE**

Senator Colantuono moved to Have SB 42-FN, an act relative to the Board of Podiatry, Taken Off The Table.

Adopted.

**SB 42-FN**, an act relative to the Board of Podiatry. Executive Departments. Inexpedient To Legislate. Senator Colantuono for the committee.

### **SUBSTITUTE MOTION**

Senator Colantuono moved substitute motion of Ought To Pass for Inexpedient To Legislate.

Adopted.

Senator Colantuono offered a floor amendment.

**SENATOR COLANTUONO:** Yes, Mr. President, I offer and give you a little history of the bill. This bill came to the Executive Departments Committee shortly after the Dentistry bill. It was originally a request of the Attorney General's office, Assistant Attorney General, Doug Jones that deals with the agencies and he wanted to modernize some of these agency statutes and make the language in them similar. Our committee made some changes to the Dentistry bill and we passed it well over a month ago now. This one we had a problem with because the Podiatrist who came and testified before our committee had a dispute over the scope of practice language which presently they're not allowed to perform amputations and some of the Podiatrists wanted to have that power. That was the primary reason we decided to just kill the bill. There has been agreement to bring the bill back off the table and in order to do that and make it consistent to the changes we made in the Dentistry bill, we had to go through and fix some of the provisions and all those changes are reflected in the floor amendment. We have left the scope of practice limitation on amputations and anesthesia in the bill and we are hoping that when this bill is passed and sent over to the House, the House will take it up together with a bill the House has, and which they are studying the whole podiatry practice, so that the whole issue can be reconsidered over there and we will leave it in the Houses' hands.



**Floor Amendment to SB 42-FN**

Amend RSA 315:2, II as inserted by section 1 of the bill by replacing it with the following:

**II. Any person applying for licensure under this chapter, including any person seeking to restore or renew, shall provide the board with information relating to podiatric competence and professional conduct, in accordance with rules adopted under RSA 315:4, X.**

Amend RSA 315:8, III as inserted by section 6 of the bill by replacing it with the following:

III. Each license shall be numbered and recorded by the board. During each year, the board shall make available to each licensee upon the request of the licensee a list of the names, business addresses, and license numbers of all podiatrists licensed under this chapter.

Amend the bill by replacing section 7 with the following:

7 Disciplinary Actions. RSA 315:9, II(c) through (h) are repealed and reenacted to read as follows:

(c) Intentionally harming a patient or otherwise engaging in unprofessional conduct in practicing podiatry or activities ancillary to the practice of podiatry or any particular aspect or specialty of the practice of podiatry;

(d) Physical or mental incapacity, gross or repeated negligence or otherwise displaying a pattern of behavior incompatible with the basic knowledge and competence expected of persons licensed to practice podiatry or any particular aspect or specialty of the practice of podiatry;

(e) Habitual use of or addiction to the use of alcohol or other habit-forming drugs to the degree as to render him unfit to practice podiatry;

(f) Knowingly or willfully violating any provision of this chapter or any substantive rule or order issued by the board;

(g) Suspension or revocation of the licensee's license to practice podiatry in another jurisdiction.

Amend RSA 315:9, III(f) as inserted by section 8 of the bill by replacing it with the following:

**(f) By assessing administrative fines in amounts established by the board which shall not exceed \$2,000 per offense, or in the case of a continuing offense, \$250 for each day the violation continues.**

Amend RSA 315:9, V as inserted by section 9 of the bill by replacing it with the following:

V. The board shall conduct an investigation of any person licensed by the board who has been the subject of 3 reservable insurance claims or legal actions for medical injury as defined in paragraph IV, which pertain to 3 different acts or events within any consecutive 5-year period commencing with the effective date of this act.

Amend RSA 315:12 as inserted by section 13 of the bill by replacing it with the following:

315:12 Neglect to Renew. Any failure, neglect or refusal on the part of any person licensed by the board to renew his license as provided in RSA 315:11 shall cause the license to lapse. Licenses lapsed under this section shall not be restored except upon payment of a restoration fee as established by the board, which fee may include a charge for each year the license has been in lapsed status. Any licensee who allows his license to remain lapsed for more than 3 years shall not have his license restored unless the board determines that the licensee has demonstrated professional competence.

Floor Amendment Adopted.

Ordered To Third Reading.

### **TAKEN OFF THE TABLE**

Senator W. King moved to Have SB 54-A, an act relative to replacing the Plymouth Bridge on New Hampshire Route 175A in Plymouth and making an appropriation therefor, Taken Off The Table.

Adopted.

**SB 54-A**, an act relative to replacing the Plymouth Bridge on New Hampshire Route 175A in Plymouth and making an appropriation therefor. Capital Budget. Inexpedient To Legislate. Senator W. King for the committee.

SENATOR W. KING: I will try to be very brief. I have just spoken to members of the Capital Budget committee and they assured me that they will work with me to try to deal with this problem in another way before the end of the session. I want to say just one thing: this has been a real education for me dealing with the Highway Department. I have never seen such a bunch of yahoo's when it comes to actually getting answers out of them. We asked on several occasions to see a list of bridges on a scientific basis that were rated according to their quality and they still have not produced that list. They have the political list, but that is all in alphabetical order. You ask them to show you a list of priorities and they can't do it. All they can show us is an alphabetical list of bridges that are on the ten year highway plan. All I asked was that the Plymouth Bridge, because



there are ten thousand kids everyday walking across that bridge from the town of Plymouth over to the Field House facilities at Plymouth State College, all I ask is that that bridge be put in a scientific basis on that list so that it would be treated in a fair way. This is the problem that we have gotten ourselves into with letting the Executive Council make political decisions about what bridges should be replaced and what roads should be built. It is a much bigger problem than I have ever envisioned. The Highway Department participates in that political process and they do not help in any way to move us toward a wise public policy for our Highways and Bridges in the State of New Hampshire. I would encourage all of you to vote Inexpedient to Legislate but ask you to recognize that at some point we will be trying in some way to get some reasonable answers out of the Highway Department and dealing with this later on in the session.

SENATOR OLESON: Since this bill came out of the Transportation committee I would like to say a few words why. Why it came out with that directive was that the bill said highest priority and that is what it's doing. After many hours, and I say hours of testimony in Capital Budget in the hearings, we had the whole Transportation Department over here to try to field any question that might come down the pike. I think this bill has had as much consideration that any bill has had that came down the pike this session. Now to cure this problem on priority or whatever, we do have three bills coming down and one was passed last week. And there is another one, HB 700, and another one, and they are all companion bills which, and it is a quite lengthy bill. It is going to be hard to defend because anyone of us here can find maybe why he can nitpick a little bit. Nevertheless, for the sake of the Transportation Department I think this is a step forward and I hope when these bills come down that the Senate will consider it and give a favorable opinion. Thank you.

Committee Report of Inexpedient To Legislate is Adopted.

### TAKEN OFF THE TABLE

Senator Shaheen moved to Have SB 168-FN, an act relative to future statewide toll increases, Taken Off The Table.

Adopted.

**SB 168-FN**, an act relative to future statewide toll increases. Transportation committee. Ought To Pass With Amendment. Senator Shaheen for the committee.

SENATOR SHAHEEN: If everybody can look what is being passed out to you is a floor amendment to SB 168. The bill as it was passed was an attempt to address a problem that we had on the Spaulding

Turnpike in Dover, with the toll increases that were passed a little over a year ago. They were passed unevenly throughout the state and everybody did not have the same percentage increase. There was some concern with how the original bill would effect the Everett Turnpike and the other toll areas around the state. What we want to do is to change the original bill into a study committee.

SENATOR NELSON: I just want to rise, and I know there is an amendment on the floor and I want to rise in strong opposition to this 168 which is driving the study committee. I am not so sure that what affects one district in this state should be pushed upon another district when we are talking about tolls. I am not so sure that there are toll equities and I just wanted to make that perfectly clear to everyone because there are a lot of tolls over on the southern part that cost a lot more than the tolls on the other side of the state. I just wanted to bring that up to everyone's attention, that if they raise the tolls on one side when you are paying .25, .50 percent and you raise the tolls on the other side of this state which has .75 you are talking about a difference and I just want to make sure for my constituents and all the other people in the other side of the state that somehow when they want to clear equities on one side of the state that the other side doesn't bear the burden. I applaud Senator Shaheen for trying to study the issue and trying to solve problems in her district, but I just wanted to say that.

### Amendment to SB 168-FN

Amend the title of the bill by replacing it with the following:

### AN ACT

relative to future statewide toll rate changes.

Amend RSA 237:9 as inserted by section 1 of the bill by replacing it with the following:

237:9 Tolls. The commissioner of transportation, with the approval of the governor and council, shall establish toll rates and other charges for use of the New Hampshire turnpike system or any part of the right-of-way and other property acquired in connection therewith. **A proposed toll rate change shall affect tolls at all state toll plazas proportionately, based on each toll plaza's current rate. All toll rate changes shall be rounded off to the nearest nickel.** The governor and council shall approve or reject the commissioner's proposed toll rates and other charges within 90 days of receiving them. The tolls collected shall be deposited with the state treasurer who shall keep the same in a separate account for the New Hampshire turnpike system and the operating expenses and maintenance



costs of the system shall be paid from said account. From the balance remaining after payment of operating expenses and maintenance costs, there shall be paid the interest and principal on the bonds issued to finance the system. Fourteen days previous to the time any such interest or principal is payable, the state treasurer shall examine the existing balance and, except as otherwise provided in RSA 237:10, if such balance is insufficient to make the payment, then he shall notify the governor who shall immediately draw his warrant on the highway fund to cover any deficit and if the funds in both of the above accounts are insufficient, the governor shall draw his warrant upon the state's general fund to the amount necessary to meet the payments. Any funds paid out from the state's highway fund or general fund for the above purposes shall be reimbursed from the collection of tolls as soon as such funds are available. Any funds that have been or may be expended for any portion of the system by the department of transportation shall be repaid to said department when, in the opinion of the governor and council, sufficient funds are available. Any excess income may be used for further system extensions in accordance with RSA 237:5, II(m). No provision of this chapter shall constitute a covenant with bondholders with respect to the charging, collection or disposition of tolls.

### AMENDED ANALYSIS

This bill requires proposed toll rate changes to change tolls at all state toll plazas proportionately, based on each toll plaza's current rate.

This bill also requires that all toll rate changes shall be rounded off to the nearest nickel.

Committee Amendment Fails.

Senator Shaheen offered a floor amendment.

SENATOR SHAHEEN: Everybody has before you the floor amendment that I referred to earlier. As I said earlier this is an attempt to study the inequities that I believe exist and people in my district believe that they do exist in the current system of toll roads. We had a lot of testimony from people from both the Everett Turnpike and the Spaulding Turnpike the day of the hearing. People who expressed concern about feeling that our toll system is unfair as it now stands. So this is an attempt to look at it and see if we can't address some of those inequities.

SENATOR ROBERGE: On SB 168-FN, originally I opposed SB 168-FN, but now that it has been changed to a study committee I feel that this is an excellent way to go. The people in my district

want the whole toll system studied, and it is important, and I feel that the makeup of the committee is very evenhanded and they will come out with something that will be very beneficial to all the state.

### **Floor Amendment to SB 168-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study the toll highway system.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is hereby established a committee to study toll rate inequities within the New Hampshire turnpike system.

2 Membership.

I. The committee members shall be as follows:

(a) Two members of the senate, one of whom shall be from the transportation committee and one of whom shall be from the capital budget committee, appointed by the president of the senate.

(b) Two members of the house of representatives, one of whom shall be from the public works committee and one of whom shall be from the transportation committee, appointed by the speaker of the house.

(c) The commissioner of transportation, or designee, who shall be a nonvoting member.

(d) One member of the public representing the city of Dover, nominated by the governing body of Dover and appointed by the governor.

(e) One member of the public representing the city of Nashua, nominated by the governing body of Nashua, and appointed by the governor.

(f) One member of the public representing the city of Rochester, nominated by the governing body of Rochester, and appointed by the governor.

(g) One member of the public representing the town of Bedford, nominated by the governing body of Bedford, and appointed by the governor.

(h) One member of the public representing the town of Hampton, nominated by the governing body of Hampton, and appointed by the governor.

(i) One member of the public representing the town of Hooksett, nominated by the governing body of Hooksett, and appointed by the governor.



(j) One member of the public representing the town of Hudson, nominated by the governing body of Hudson, and appointed by the governor.

(k) One member of the public representing the town of Merrimack, nominated by the governing body of Merrimack, and appointed by the governor.

II. The committee members shall be appointed within 30 days of the effective date of this act. The senate members shall call the first meeting of the committee. The committee shall elect a chairperson from among its members at the initial meeting of the committee.

3 Duties of the Committee. The committee shall study the state's system of toll roads, examining the costs of building and operating such roads, and recommending ways of making the toll road system more equitable for the residents of New Hampshire who travel such system.

4 Report. The committee shall submit a report on its findings, including any recommendations for legislation, to the president of the senate, the speaker of the house and the governor not later than November 1, 1991.

5 Mileage. Legislative members shall receive mileage at the legislative rate when attending to the business of the committee.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study toll rate inequities within the New Hampshire turnpike system.

Floor Amendment Adopted.

Ordered To Third Reading.

### TAKEN OFF THE TABLE

Senator J. King moved to Have SB 213-FN-A, an act relative to the distribution of the rooms and meals tax, Taken Off The Table.

Adopted.

**SB 213-FN-A**, an act relative to the distribution of the rooms and meals tax. Ways and Means committee. Ought To Pass With Amendment. Senator J. King for the committee.

SENATOR J. KING: I will be very brief because we have been through this I think once or twice already. The purpose is to restore rooms and meals to some of it's original intent as when it started. There are a few basics facts I want to let you know before we vote on it. First of all, nothing is going to change until 1995, and that will be the first change that takes place, and secondly, it will be only the

percentage of the income given back to the locals and it will be only from that increase for that year. So if there was no increase then nothing goes back. The 4 million that goes to the locals now and the 79 million that goes to the state is like a zero balance. They stay the same, and you carry on from there on. The first year there is a maximum in 1995, of 2 million and the second year 3 million, and then 5 million. Or if there isn't that then 75 percent of what the income is. We all know that the city and towns have difficulty with property taxes and my suggestion is, that we pass this and hopefully give the property taxes and the renters a break.

SENATOR HOUGH: I recognize John's good intentions and I admire him for it. We have to pay attention to one thing, whether it is 1995 or it is 1992. This piece of legislation is well meaning and as advantageous as it is to the locals, restricts potential growth in revenues that the state will have. There has to be a recognition that the state has legitimate needs and you can't cut revenue sharing and can't roll back on aid to cities and towns. We have constitutional amendments that say that we cannot mandate back to the locals. You have to recognize that the state assumed responsibilities for children and youth that prior to 1984 the local communities bore. I suppose at this point when you are \$100,000,000 in the hole you can do anything that you want because the reason apparently has gone out the window. I don't call what John King is doing from his point of view, but there has to be a recognition that the state has legitimate needs and they are going to have to protect their sources of revenue to carry them out. There isn't apparently the will in this legislation to visit new sources of revenue to the state. Until that day comes, you are going to find the problem growing and if there is an opportunity for revenue source to provide revenues to the state we should guard and protect. That is all I have to say.

SENATOR J. KING: Senator Hough said it was not a good time and I think this a great time. The time the money was taken away from us when the real great times 1985, 1986 the best years you could ask for as far as state Government was concerned, as far as state funding was concerned. This is not going to effect the crunch and the next biennium is not going to be any effect at all. Hopefully, there will be no recession or whatever you want to call it and it will be gone by then. He mentioned that it was difficult for the state to get new sources and it is going to be much more difficult if they don't keep the word that they made in 1967. They agreed that this would be shared on 40 to the locals and 60 to the state. They changed that and all that I am asking is that we change it back and it will be over a long period of time. I will give you one example like this, and I took the income which was \$7,000,000 above each year, it would take



twenty-years before you would get back to that 60/40 and that is if that is \$7,000,000 each increase. It would take twenty years to get back to the 60/40 so we are not rushing it. But as a good indication, I think we are letting the people out there know that we are concerned about the property taxpayer. We all say that we are going to do something about it, this is a way to do it, and a gradual way to do it, and a painless way or as painless as it can be.

SENATOR BLAISDELL: I will be very brief. Very seldom do I stand on this floor and vote against Senator Hough. I think his words should be heeded and I am going to support John King on this, and I hope by 1995 that maybe some of the Representatives from the Manchester area will realize we need revenue reform in this state, and we can give some money back to the cities and towns more than they can get now if we can get some money for state Government. I'll support you, John, and I hope that sometime in this Senate the people from Manchester, instead of listening to that rag they have over there, come in this Senate and get some revenue reform in this state.

SENATOR OLESON: I have talked to John many times on this and the present time I will support with reservations. The reservation is that when they determine how much each town will get it says here that the numerator of which shall be the population of the unincorporated towns. Now when you have an unincorporated town they have needs, they have accidents, they have forest fires, and the Lord knows that they have the same problems that populated areas have. The population says none, and you come back on cap basing on our last experience, and the last time I went to school  $1000 \times 0$  meant that you end up with nothing. This is my objection at the present time. And I think unincorporated townships and I have pulled one many times, I think, but I am not quite sure, but I rely on the integrity of people don't care even though I might feel that my pocket might be being picked, I still rely on John's integrity, that we are going in the right direction so I will support this.

#### **Amendment to SB 213-FN-A**

Amend the bill by replacing section 2 with the following:

2 New Section; Distribution of Meals and Rooms Tax Revenue.  
Amend RSA 78-A by inserting after section 25 the following new section:

78-A:26 Disposition of Revenue.

I. Beginning on July 1, 1994, and for each fiscal year thereafter, the department shall pay over all revenue collected under this chapter to the state treasurer, for deposit in the meals and rooms tax fund under RSA 6:12, I(nn). On or before October 1 of each year, the

department shall determine the cost of administration of this chapter for the fiscal year ending on the preceding June 30, and it shall notify the state treasurer of these costs by a report certified by them as to correctness. After deducting the cost of administration of the chapter from the total income, the state treasurer shall distribute the net income as follows:

(a) Sixty percent to the general fund.

(b) Forty percent to the unincorporated towns, unorganized places, towns and cities. The amount to be distributed to each such town, place, or city shall be determined by multiplying the amount to be distributed by a fraction, the numerator of which shall be the population of the unincorporated town, unorganized place, town or city and the denomination of which shall be the population of the state based on the latest resident population figures furnished by the office of state planning.

II. For fiscal year 1994, instead of the 40 percent distribution in subparagraph I(b), 75 percent of each city's or town's 1976 distribution under RSA 78-A:23, shall be distributed under the provisions of subparagraph I(b), plus an amount equal to 75 percent of any increase in the revenue received from the meals and rooms tax for the fiscal year ending on the preceding June 30 not to exceed \$2,000,000. For fiscal year 1995, the amount to be distributed shall be equal to the prior year's distribution, plus an amount equal to 75 percent of any increase in the revenue received from the meals and rooms tax for the fiscal year ending on the preceding June 30 not to exceed \$3,000,000. For fiscal year 1996 and each year thereafter, the amount to be distributed shall be equal to the prior year's distribution plus an amount equal to 75 percent of any increase in the income received from the meals and rooms tax for the fiscal year ending on the preceding June 30 not to exceed \$5,000,000, until such time as the total amount distributed annually is equal to the amount indicated in subparagraph I(B).

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect July 1, 1993.

### AMENDED ANALYSIS

This bill changes the way revenue from the meals and rooms tax is distributed to cities and towns beginning in 1994. Sixty percent of the revenue is deposited into the general fund, and 40 percent is returned to cities and towns based on population.

Special provision is made for the distributions in fiscal years 1994 and 1995, specifying certain amounts which go into the general fund, and to cities and towns. For fiscal year 1996 and each year thereafter, the amount to be distributed will be equal to the prior year's



distribution, plus an amount equal to 75 percent of any increase in the income received from the meals and rooms tax for the fiscal year ending on the preceding June 30 not to exceed \$5,000,000, until such time as the total amount distributed annually is equal to the 40 percent amount returned to cities and towns based on population.

Committee Amendment Adopted.

Ordered To Third Reading.

### RESOLUTION

Senator Currier moved that all Senate Bills left in Committee, with the exception of SB 10, establishing a study committee on bonuses for veterans who served in the Persian Gulf. And any bills that are laid on the table or not acted upon by the body in any manner with the exception of those sent to the Court for an opinion of the Justices be by this resolution made Inexpedient to Legislate.

### LAID ON THE TABLE BILLS

**SB 44**, permitting municipalities to acquire running liens on property of property owners owing back taxes.

**SB 130**, relative to certain real property received from drug forfeitures to the state.

**SB 177-FN-A**, an act relative to enhancing prenatal care and making an appropriation therefor.

Adopted.

### RESOLUTION

Senator Delahunty moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

SENATOR NELSON: (Rule #44): I just wanted and I was trying to think of a way to say this in a nonpatronizing manner. I would just like to commend my colleague John King for his persistence, perseverance, and stick-to-itiveness in terms of his piece of legislation. Not only that in a time when people have been trying for four and five years to do something for the cities and towns, Senator John King came up with an idea I saw to fruition. I think he should be given a lot of credit, because it passed by quickly at the end of the day and I just wanted to say that again publicly.

**ANNOUNCEMENTS****RESOLUTION**

Senator Delahunty moved that the Senate be in recess until April 25, at 1:00 p.m. for the sole purpose of introducing legislation, referring bills to committee, scheduling hearings and enrolled bills reports.

Adopted.

**LATE SESSION****Third Reading and Final Passage**

**SB 42-FN**, an act relative to the board of podiatry.

**SB 168-FN**, establishing a committee to study the toll highway system.

**SB 213-FN-A**, an act relative to the distribution of the rooms and meals tax.

**HB 114-FN**, an act relative to the date for terminating the motor vehicle emissions inspection program.

**HB 120**, an act to standardize the use of tax exemptions and tax credits for property tax purposes.

**HB 170-FN**, an act to provide immunity to the board of examiners of psychologists, its agents, investigators, and employees against civil actions resulting from disciplinary investigations and proceedings.

**HB 244-FN**, an act establishing a committee to examine whether the state commission for human rights should be authorized to levy administrative fines and award compensatory and punitive damages.

**HB 255-FN**, an act establishing the New Hampshire foundation for mental health and the mental health foundation fund.

**HB 292-FN**, an act relative to the real estate tax lien process.

**HB 313**, an act relative to conversion between mutual savings banks, cooperative banks, building and loan associations, guaranty savings banks, savings and loan associations, and commercial banks and trust companies.

**HB 368-FN**, an act naming the Parker L. Hancock Building of the New Hampshire state prison.

**HB 396**, an act relative to filing reports in court proceedings involving children.



**HB 397-FN**, an act relative to persons afflicted with Alzheimer's Disease.

**HB 407**, an act relative to failure to report injuries resulting from criminal acts.

**HB 433**, an act establishing a developmentally delayed category.

**HB 452-FN**, an act relative to solicitation of prostitutes.

**HB 465**, an act relative to a veterans' cemetery at the Pease Air Force facilities under the Pease development authority.

**HB 492-FN**, an act relative to conservation restriction assessments.

**HB 496-FN**, an act relative to administrative fines for marine pollution.

**HB 530-FN**, an act relative to marital arbitration.

**HB 567**, an act relative to stepparent's visitation rights.

**HB 672-FN**, an act relative to standards for fire safety for community living facilities.

**HB 752-FN**, an act prohibiting merchants from requiring the recording of a credit card number or expiration date as a condition for check cashing or acceptance.

**HB 756-FN**, an act relative to victims' bill of rights.

**HCR 3**, a resolution supporting the building of a fire academy.

**HCR 10**, a resolution requesting Congress to propose an amendment to the United States Constitution prohibiting unfunded federal mandates.

Senator Currier moved that we recess.

Adopted.

Recess.

Out of recess.

## INTRODUCTION OF HOUSE BILLS

### HOUSE MESSAGE

The House of Representatives has passed Bills and Resolutions with the following titles, in the passage of which it asks the concurrence of the Senate:

**HB 608-FN**, relative to the law enforcement authority of forest rangers and officials of the division of forests and lands. Judiciary committee.

**HB 622-FN**, relative to a debt management plan. Capital Budget.

**HB 720-FN**, relative to fireworks. Executive Departments.

Adopted.

### REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills.

**HB 53**, establishing a continually appropriated state park fund and a ski area funding mechanism.

**HB 121**, relative to limiting the mode of taking deer in Dover, Rollinsford and Somersworth.

**HB 183**, relative to the imposition of fines for securities violations.

**HB 188**, clarifying definitions of "investment metal contract" and "investment gem contract" for purposes of securities regulation.

**HB 356**, relative to uniform penalties pertaining to farm products.

**HB 706**, relative to the allowable length of semi-trailers.

**HB 707**, relative to contracts for stenographic and clerical services for indigent defense.

**HB 715**, relative to the right to jury trial in civil cases.

### REPORT OF COMMITTEE ON ENROLLED BILLS

The committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bill:

**HB 756**, relative to a victims' bill of rights.

Recess.

Out of Recess.

### LATE SESSION

Senator Delahunty moved to adjourn.

Adopted.

Adjournment.

*April 25, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Reverend Fischer: It seems like old times here to have Vesta Roy and her husband here. She made a darn good President. I remember the time she closed down the Senate and we walked out. We couldn't get along with the House.*



*Let Us Pray. It seems as though we are going astray somewhere here through compromises. Compromise is only as good as the compromisers. Like the old song, "Hi Ho, Hi Ho, it's back to work we go." But there is no work for the businesses going out of business and the people being laid off. What are we going to do? Like the priest would say "Ratre, Patres, Let us Pray". Amen.*

Senator Fraser led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### HOUSE CONCURS

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

**SB 40**, making the pink lady's slipper the state wildflower.

**SB 52**, changing the name of the Federal Home Loan Bank Board to the Office of Thrift supervision.

**SB 144-FN-A**, relative to the Women's War Memorial and making an appropriation therefor.

### HOUSE NONCONCURS

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

**SB 26-FN**, relative to licenses to carry firearms.

**SB 39-FN**, relative to reopening liquor stores.

**SB 127-FN**, relative to removing vegetation obstructing advertising devices and planting lilac bushes.

**SB 161**, relative to meetings of community associations.

### HOUSE CONCURS WITH SENATE AMENDMENTS

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

**HB 174**, relative to the appointment of a deputy town clerk by the elected town clerk.

**HB 364-FN**, relative to the opening and closing of deer season.

**HB 578**, establishing an advisory committee on Governors state park in Laconia.

**HB 629-FN**, establishing a task force on congregate housing.

**HB 756-FN**, relative to a victims' bill of rights.

## COMMITTEE REPORTS

**HB 475-FN**, an act relative to appointment of banking department assistants, and to the performance of contract services by the banking department, and to assessing the costs of bank examinations. Banks committee. Ought To Pass. Senator Delahunty for the committee.

**SENATOR DELAHUNTY:** This bill changes some of the language in the banking laws. Currently, the banking department charges on a per diem basis for personnel going in to audit or whatever. These per diem costs do not reflect the benefit costs, only the actual salary cost for that employee. These costs are eventually paid by the audited bank, but for bookkeeping reasons it was felt that it was easier to do the charging of these costs at the same time. It will allow the banking department to contract for services of legal counsel with the approval of the Attorney General's office. It is sometimes necessary to contract for additional attorneys because of the expert knowledge that is needed in some situations. This is necessary because of federal agencies requiring the department to perform certain functions that are beyond what the banking department is doing currently. The final part of the bill allows the banking commission to change the rate that it charges certain institutions for costs of bank examinations. Some institutions, such as trust institutions, do not require as much work or audits as often as fiduciary institutions and it was felt that it was unfair to be charging them the same rate.

Adopted.

Ordered To Third Reading.

**HB 328-A**, an act relative to a new Manchester district court facility and making an appropriation therefor. Capital Budget. Ought To Pass. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill appropriates \$250,000 of bonded money for the purpose of planning and renovating a mill building in Manchester for a new Manchester district court facility. We heard testimony that the Manchester district court facility was one of the worst in the state, badly in need of replacement and this bill is an excellent solution to that problem. Presently we are spending \$72,000 for the old space of 8000 square feet. With this renovation, we are going to be able to rent the new facility of 15,000 square feet for only \$43,000, with extra space, modern facilities and all the appointments that you need. The committee reported this out ought to pass unanimously and we urge your support. There is more parking also.



Referred To Finance (Rule #24).

**HB 118**, an act relative to determination of alimony where one spouse has remarried. Judiciary committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: This bill is one which we combined with another House Bill to make it one, because they did basically very similar matters in terms of what to do with alimony and figuring, if somebody gets remarried whether or not to consider their spouses income in the process. The committee felt that you should not do that and in addition, you should not consider a minor child's social security benefits when you are trying to determine what alimony should be. This has nothing to do with child support payments. It has solely to do with alimony. So that if a person does get remarried, their spouses income would not be held against them, as it should not be. So we urge you to vote for that, ought to pass with the amendment.

#### **Amendment to HB 118**

Amend RSA 458:19, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The court may make orders for alimony in a lump sum, periodic payments, or both. In determining the amount of alimony, the court shall consider the length of the marriage; the age, health, social or economic status, occupation, amount and sources of income, the property awarded under RSA 458:16-a, vocational skills, employability, estate, liabilities, and needs of each of the parties; the opportunity of each for future acquisition of capital assets and income; the fault of either party as defined in RSA 458:16-a, II(l); and the federal tax consequences of the order. **In determining amount and sources of income, the court shall not consider a minor child's social security benefit payments or a second or subsequent spouse's income.** The court may also consider the contribution of each of the parties in the acquisition, preservation, or appreciation in value of their respective estates and the non-economic contribution of each of the parties to the family unit. **In any proceeding for modification of an existing alimony order, the earned or unearned income of a spouse of the obligor party shall not be considered a source of income to that obligor party for the purpose of modification, unless the obligor party resigns from or refuses employment or is voluntarily unemployed or underemployed, in which case the income of a subsequent spouse may be imputed to the obligor party only to the extent that such obligor party could have earned income in his or her usual employment.**

### AMENDED ANALYSIS

This bill exempts the income of a party's spouse from consideration when a court determines the amount of alimony, unless the party has resigned from or refuses employment or is voluntarily unemployed or underemployed.

This bill also states that a minor child's social security benefit payments and a second or subsequent spouse's income may not be considered by the court in its determination of the amount of alimony to be paid.

Amendment Adopted.

Ordered To Third Reading.

**HB 131-FN**, an act relative to liability for acts which create situations requiring unnecessary emergency responses. Judiciary committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The committee on Judiciary would like your vote on HB 131 as ought to pass as amended. This bill was put in as a result of a previous omission in HB 1189-FN of last session. This bill allows for the collection of expenses for the response of personnel and equipment in the cases of negligent acts. The bill left out minors and juveniles. The committee felt that the statute did address that and therefore amended it to delete the reference to the age of 18. They also felt that the restitution was covered under the juvenile justice system and the parents should not be held liable for acts committed by juveniles. The bill does add to the statute "reckless and intentional acts" on an emergency response.

### Amendment to HB 131-FN

Amend the introductory paragraph of RSA 151-B:19, I as inserted by section 1 of the bill by replacing it with the following:

I. A person[, including a juvenile up to 18 years of age,] shall be liable for response expenses if, in the judgment of the court, he:

Amend the bill by deleting section 2 and renumbering section 3 to read as 2.

### AMENDED ANALYSIS

This bill permits persons to be held liable for recklessly or intentionally creating situations requiring emergency responses.

Amendment Adopted.

Ordered To Third Reading.



**HB 208-FN**, an act relative to annulments of criminal records. Judiciary committee. Ought To Pass With Amendment. Senator Podles for the committee.

**SENATOR PODLES:** HB 208 requires the court to notify the division of state police and the department of corrections when an application is received for the annulment of criminal convictions. It also permits the department of corrections to charge a fee of \$100 to cover the cost of the investigation related to the application. The amendment deletes the division of state police from this requirement and assigns the sole responsibility to the department of corrections. It also makes it clear that the fee of \$100 shall be charged to cover the investigations. The committee urges ought to pass with amendment.

### **Amendment to HB 208-FN**

Amend RSA 651:5, V as inserted by section 1 of the bill by replacing it with the following:

V. When an application has been made under paragraph I, II, III, or IV, the court shall require the department of corrections [or district court probation officer] to report to it concerning any state or federal convictions, arrests or prosecutions of the applicant during the periods specified in those paragraphs and any other information such as the applicant's employment record or the applicant's addresses during the period after his conviction which may aid the court in making a determination on the application. **The department of corrections shall charge the applicant a fee of \$100 to cover the costs of an investigation under this section, unless the applicant demonstrates that he is indigent.**

### **AMENDED ANALYSIS**

This bill requires the court to notify the division of state police, as well as the department of corrections, when it receives an application for annulment of a criminal conviction. The division of state police is required to report to the court any information which may aid the court in making a determination on the application.

This bill also requires the department of corrections to charge the applicant a fee of \$100 to cover its costs of investigations related to annulment applications, unless the applicant demonstrates that he is indigent.

Amendment Adopted.

Ordered To Third Reading.

**HB 224-FN**, an act relative to new motor vehicle arbitration. Judiciary committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The committee on Judiciary would like to ask your vote as ought to pass with amendment on HB 224. This bill establishes a procedure for new motor vehicles arbitration between manufacturers and distributors and new vehicle owners or leaser, including the processes of obtaining a refund or replacement. It establishes a new motor vehicle arbitration board which is attached to the department of safety. It exempts new and used motor vehicle dealers from being sued; requires an option of the consumer and the manufacturer for the replacement of a new motor vehicle or a comparable worth make and model, refundable purchase price, or in the case of leasee, refund of payment made on a defective motor vehicle. It establishes criteria for appealing board decisions. It permits the court to award to either party costs and reasonable attorney fees and grants the board rulemaking authority to adopt rules under this chapter. The amendment requires that the consumer who has elected the procedure under this process shall pay a filing fee of \$50 and the manufacturer shall pay a filing fee of \$200. These fees will be used so that there will be no cost to the state in this administrative process.

### **Amendment to HB 224-FN**

Amend RSA 357-D:3, IX(a) as inserted by section 1 of the bill by replacing it with the following:

(a) The manufacturer shall provide to the lessee the aggregate deposit and rental payments previously paid to the motor vehicle lessor by the lessee, and incidental and consequential damages, if applicable, minus a reasonable allowance for use. The aggregate deposit shall include, but not be limited to, all cash payments and trade-in allowances tendered by the lessee to the motor vehicle lessor under the lease agreement. The reasonable allowance for use shall be calculated by multiplying the aggregate deposit and rental payments made by the lessee on the motor vehicle by a fraction having as its denominator 100,000 or for a motorcycle 20,000, and having as its numerator the number of miles that the vehicle traveled prior to the first attempt to repair the vehicle.

Amend RSA 357-D:4, III as inserted by section 1 of the bill by replacing it with the following:

III. A consumer who elects to proceed before the board shall pay a filing fee of \$50 and the manufacturer shall pay a filing fee of \$250. Such fees shall be retained by the department of safety and used to



defray costs associated with the work of the board, including per diem costs of board members and any other administrative expenses.

Amendment Adopted.

Ordered To Third Reading.

**HB 278-FN**, an act relative to liability and indemnification of regional planning commissions. Judiciary committee. Ought To Pass. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill adds regional planning commissioners to the category of those municipal executives that have immunity for service on various boards and commissions. It is a simple bill. That is all it does, even though it is lengthy. That is the only change it makes, and the committee recommends ought to pass.

Adopted.

Ordered To Third Reading.

**HB 350-FN**, an act relative to assault. Judiciary committee.

Majority Report of Ought To Pass. Senator Hollingworth for the majority.

Minority Report of Ought To Pass With Amendment. Senator Colantuono for the minority.

**SENATOR COLANTUONO:** I defer to Senator Hollingworth.

**SENATOR HOLLINGWORTH:** I rise to ask that this be made a special order for Tuesday at the request of one of the members.

Special Order for Tuesday, April 30 at 1:01.

Adopted.

**HB 445-FN**, an act defining "compact parts" of towns and cities with regard to criminal charges for unauthorized use of firearms and firecrackers. Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill closes a loophole in the statute regarding unauthorized use of firearms and firecrackers. For years, we have had the term "compact parts" but it has never been defined. Because of some problems in Londonderry, Representative Boucher put this bill in to define "compact parts" as any contiguous area containing six or more buildings or the space between them within 300 feet plus a perimeter of 300 feet around them. It includes parks and playgrounds and other outdoor gathering places to pro-

vide further safety from gunshots and the use of firecrackers. So the committee recommends ought to pass with amendment to clarify the term "compact part".

### **Amendment to HB 445-FN**

Amend RSA 644:13, I as inserted by section 1 of the bill by replacing it with the following:

**I.** A person is guilty of a violation if, within the compact part of a town **or city**, he fires or discharges any cannon, gun, pistol, or other firearm; or fires or discharges any rockets, squibs, or firecrackers except by written permission of the chief of police or [selectman] **governing body**.

Amendment Adopted.

Ordered To Third Reading.

**HB 455**, an act relative to determination of amount of alimony awards.

Judiciary committee. Inexpedient To Legislate. Senator Podles for the committee.

SENATOR PODLES: HB 455 is designed to protect a minor child's social security benefit payments and a second or subsequent spouses income from being considered by the court as alimony to be paid. All of this is being taken care of in HB 118 and there is no need for this bill. The committee's decision was inexpedient to legislate.

Committee Report Adopted.

**HB 461-FN**, an act relative to notice for out of district placement by the court. Judiciary committee. Ought To Pass With Amendment. Senator Podles for the committee.

SENATOR PODLES: HB 461 does not have a fiscal note. It only requires the court to notify the department of education when out of district placement is made for a child receiving special education and educationally related services. The bill should not have been put in, but courts are not doing their job and currently the school district is responsible. But if the child comes under DCYS, the cost is split between DCYS and the department of education. The bill assures making the placement. With this bill, everybody wins. The amendment changes the statute from 186:C-19:b to 169:B, C, D where it belongs. The committee urges passage of the bill with amendment.

### **Amendment to HB 461-FN**

Amend the bill by replacing all after the enacting clause with the following:



1 New Section; Out-of-District Placement. Amend RSA 169-B by inserting after section 19 the following new section:

169-B:19-a Out-of-District Placement. In the case of an out-of-district placement, the appropriate court shall notify the department of education on the date that the court order is signed, stating the initial length of time for which such placement is made. This section shall apply to the original order and all subsequent modifications of that order.

2 New Section; Out-of-District Placement. Amend RSA 169-C by inserting after section 19 the following new section:

169-C:19-a Out-of-District Placement. In the case of an out-of-district placement, the appropriate court shall notify the department of education on the date that the court order is signed, stating the initial length of time for which such placement is made. This section shall apply to the original order and all subsequent modifications of that order.

3 New Section; Out-of-District Placement. Amend RSA 169-D by inserting after section 17 the following new section:

169-D:17-a Out-of-District Placement. In the case of an out-of-district placement, the appropriate court shall notify the department of education on the date that the court order is signed, stating the initial length of time for which such placement is made. This section shall apply to the original order and all subsequent modifications of that order.

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill requires the court to notify the department of education when an out-of-district placement is made for a child receiving special education or special education and educationally related services.

Amendment Adopted.

Ordered To Third Reading.

**HB 635-FN**, an act authorizing the house judiciary committee to study misdemeanors and misdemeanor sentencing. Judiciary committee. Inexpedient To Legislate. Senator Podles for the committee.

**SENATOR PODLES**: HB 635 authorizes the House Judiciary committee to study all existing misdemeanor statutes relative to their term of imprisonment. The committee felt that this could be accomplished without legislation and recommends inexpedient.

Committee Report Adopted.

**HB 659-FN**, an act relative to legal representation in eviction proceedings. Judiciary committee. Inexpedient To Legislate. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** This bill was put in as a result of a supreme court decision stating that when a person is represented in court by one other than himself, it must be an attorney. The landlord's association felt that this was an unfair situation because in the case of eviction the situation is simple enough to deal with themselves rather than go to an additional expense of hiring an attorney. The landlord, if he is the owner, can do this now under the current law. But the problem comes about when the business entity such as partnerships, corporations and trusts are involved. Several amendments were presented to the committee to address the problem with the original bill but no agreement could be reached with the various parties involved. The committee felt that because of the potential problem of unlicensed people acting as attorneys and the lack of consensus by the various parties that this bill should be inexpedient to legislate, which is what the committee would ask you to do.

Committee Report Adopted.

**HCR 7**, a resolution adopting a bill of rights for children. Judiciary committee. Inexpedient To Legislate. Senator Russman for the committee.

**SENATOR RUSSMAN:** I believe that a lot of the committee members spent a great deal of time dwelling on this resolution. I know I did. And I received a lot of telephone calls and did a lot of research on it. Personally, I have no difficulty and actually like the language within the resolution. There are many wonderful things about it. And I can't speak for the other members of the committee. Also many people would support the "would be" amendment of Senator Colantuono, that has a lot of great words in it at the same time. But, I think that is where the trail diverges with this particular point with the two amendments. Rightfully, or wrongfully, some people are absolutely petrified that this somehow is going to jeopardize their rights as parents or compromise their family as a unit. I think the author hoped that it would be universally embraced as a resolution. Perhaps if it simply said that children have the right to be loved, then perhaps that would be the case. I think it could be said that how to best raise kids and children for decades and decades and decades has been argued and studied and there are probably as many ways as there are parents to do that. Many cultural, religious, ethnic, environmental and geographical reasons enter into how we want to raise our kids. Then, as many of you probably have come to know or know already, once you have to start dealing with an adoles-



cent teenager; you begin to realize you don't know much about raising kids. I think most significantly we found that the constitutional safeguards both in the federal constitution, Bill of Rights and also in the state constitution, under part one, the first 39 amendments essentially, gave adequate safeguards and protection for all the members of our society here in New Hampshire and in the United States. I think we make the laws as governmental leaders and I think it is up to us to see that the safeguards are in place, more so than in passing resolutions. I realize that this is only a resolution but I respectfully submit that I think it is not one that the Legislature need make, but perhaps it is left to each member of the families that live here in New Hampshire. The issue of how we should love our children, I will leave to you, but the committee felt that it was inexpedient to legislate on that basis.

SENATOR SHAHEEN: Senator Russman, does this resolution have any legal impact on parents rights in New Hampshire?

SENATOR RUSSMAN: I think that I can say from a personal basis, I don't believe it does. Because it doesn't have the stature of law. At the same time, there are those who have the perception, rightfully or wrongfully, that somehow it jeopardizes their position. I guess the committee felt, as a majority certainly, that while this was a country of majority rule and majority right that on such a sensitive subject on what we shall or shant do with our children ought to be best left to those family members.

SENATOR SHAHEEN: Maybe I wasn't clear enough, I would like to rephrase it. Does this have any legal impact? I am not talking about a personal response. Obviously we disagree on this issue, but the question is, is this legally binding on any parental rights in the state of New Hampshire?

SENATOR RUSSMAN: Let me say this. Two things, your last question first. I think we do agree on it actually. But in the first question that you asked whether there are any legal rights that is up to the state supreme court to say in finality. Personally, I say that it doesn't because it doesn't have the legal stature. But at the same time, there are people with perceptions, rightfully or wrongfully, that it does.

SENATOR SHAHEEN: Would you agree that this is a resolution and it is not a bill?

SENATOR RUSSMAN: I think I can get that far, yes.

SENATOR SHAHEEN: And therefore, as a resolution, it does not have any legally binding effect in New Hampshire?

SENATOR RUSSMAN: Let me say this. It is not a simple question. There have been cases where resolutions have been alluded to in decisions that have been passed down, even though it has no legal effect as you and I would understand.

SENATOR HOLLINGWORTH: I sit on Senate Judiciary, and I was a dissenting vote on this resolution. The reason I came to my decision on this was, I listened to the testimony. I was there for most of the long debate that came from the public who came before us. And at no time, during that whole debate, did anyone address what was in the bill. They addressed what might happen, what could happen, what they wanted to see added to it, like they felt if you were going to give rights to children, you had to give rights to unborn children. But no one addressed in any substance the dangers that existed in this at all, and no one could give me any reason why it was dangerous, except to say that in some other country, this kind of bill had passed and it had resulted in young people committing suicide. Since I sat on the committee, I ended up having a lot of phone calls every single night. Very few, from my constituency. But what they said to me was; "this bill, we want you to vote it down". I would take the time to say this is not a bill, this is a resolution. What it says, according to the sponsors, and I did remind them that most of the sponsors were upstanding citizens, people who care about family. I mentioned that fact that Senator Dupont was also a sponsor. The fact that Mrs. Bean, representative in the House, had long fought for families. That there wasn't one individual, not one individual, who was a sponsor of this legislation that anyone could ever say had not acted in the best interest of families. I went a little bit further and asked them if they knew the reason why the sponsors said they sponsored this legislation. I had made a point of trying to see as many of the sponsors as I could. And what they told me was that during these hard economic times, they felt that they wanted to make a statement that we had to care about children. That we couldn't lose sight of them. We had to care about prenatal care. We had to care about vaccinations. We had to care about WIC. We had to care about education. We had to remember that there was abuse out there and that we had to make sure that those people who would abuse would be penalized. But in no way, did any one of those people ever have a reason that was to take power away from families. If anything, if you look at the list of sponsors, you know full well that these are the people who stood before you and argued for the rights of families, to keep families together and to support families. I understand what people are afraid of that there might be something behind this. But all of us are well aware that a resolution carries no weight of law. That all it is, is a statement that we care about our children. I would ask any of you



here to look at this list and find anything at all that you can stand up and say you think is in here that is wrong. If you can, if you can tell me one solid reason why someone could not support this because it is evil or it will cause some detriment to the family or to children, I could understand that. But not one person did. I know you received a lot of phone calls. That, I have to say to you, is absolutely amazing to me. Here we are in a crisis of whether we are going to have funding for our seniors, funding for our children, funding for some of the most essential things to society and yet what do we receive so many phone calls on. A resolution that says we love our children in New Hampshire and we care about them and we want to see them get our services, and we won't lose sight of that no matter what our economic times are. To vote against this is to say Senator Dupont and all the other sponsors of this bill did something wrong. You and I know that is not true. I cannot support a bill for inexpedient on those grounds, because I know the intent of these sponsors is for good and for our children and I hope all of you will support them and vote this bill ought to pass. I believe that motion will come from another member.

### SUBSTITUTE MOTION

Senator McLane offered a substitute motion of ought to pass.

SENATOR MCLANE: I do wish to speak and I am finding this very difficult. I don't think I have ever felt so angry on the floor of this Senate. I wish I had before me that editorial from my dear newspaper, The Manchester Union Leader, which says that resolutions don't mean anything and we shouldn't be wasting our time on them. Because that might calm me down a bit. But I cannot believe that people in this Senate could read the words of this bill of rights and spectre up the boogeyman that you have seemed to do here today. I have very carefully looked into the letters and telephone calls that I have gotten. I believe they all are instigated by the far right Christian churches. And I ask people as they called over the phone, none of them had read the wording of the children's bill of rights. And for that reason, I discount, or at least know where it comes from, much of the opposition. I was privileged to be the guest speaker at the first signing of the children's bill of rights and today, I have visiting my oldest granddaughter, who was also there at that ceremony in Conway, New Hampshire. The ceremony was attended by over 200 people. The one pediatrician in Carroll county, yes, the priest of the Catholic Church, and many, many, many parents. They had a cute scene. They had two babies in baby carriages and they were the first to sign by dipping their feet in an ink pad and that was the first signature on the large bill of rights. They then had two one year

olds, and two two year olds and two three year olds. And when they got to five, one of them was my granddaughter. There was not an ounce of malice in that room in the gym of the small school in North Conway. And I find it hard to believe that any person in this room could truly read the words "the right to enter the world", does that speak to anti-abortion or pro choice? No. The right to enter the world, loved, nurtured and in good health. The right to be well nourished and sheltered from harm. How can you read those words and find anything that you and I don't want. The people that wrote this, Dr. Steve Kairys, who is the head pediatrician at Hanover Hospital and the Mary Hitchcock Clinic, has worked his heart out for children in this state — has appeared before Senator Blaisdell's committee. They are the people who fought for the 5 percent diversion funds. They are the people who put in the prenatal care. They have fought for AFDC and child health and special medical services, Headstart, child care, WIC. They are the people that wrote this. If anyone today can articulate in any way, how this is going to harm families, I have yet to hear the argument. I am sorry to be so angry, but I am. Because I am tired of this gang, pushing all of you guys around. And saying to you that there is something wicked about a child's bill of rights that asks for children to be loved and in good health.

SENATOR HEATH: Senator McLane, how on earth can I take seriously a group that will coerce a baby in a carriage to sign something before they are even able to read?

SENATOR MCLANE: I guess that is just the sort of thinking that I am talking about. That baby had a mother and a father who loved them very, very much. They have hopes for that baby in this world. And they would hope . . . . Are you saying that no child has any rights to want good health, warmth, love? I think that is exactly the sort of stuff that you are seeing that I can't even begin to understand.

SENATOR HEATH: Would you believe, Senator, I am saying the kind of mentality that would put ink on the fingers of a child in a baby carriage and put those fingers to a document that that child didn't understand, comprehend, couldn't even talk about is the kind of mentality that would scare me away from anything that group produced? Would you believe that?

SENATOR MCLANE: And yet, you wouldn't mind a parent who would pierce a child's ears or forced them to go to church or forced them to have a vaccination. Are you saying that every child should be allowed to anything? I can't even begin to argue with you I find it so unbelievable.



SENATOR BLAISDELL: I support Senator McLane and the motion she is going to make. I cock my chair, as you notice, most of the time so that I can get a great view of the Senate. Get a good look at Senator Heath when I want to look over that way. Just a few minutes ago, when Senator Shaheen stood on the floor of this Senate and debated with my good friend, Senator Russman, I took a look at this lovely young lady sitting in the front, her daughter, and the other young lady with her. But mostly I looked at Miss Shaheen, who looked at her mother. And you could see the love going back and forth between the both. And as I turn around and I look at this little guy in the back row with his little red tie and the boy with him, his feet not touching the floor yet, but someday they will, what in God's name are we debating something like this for. It is just a resolution that says we love our children. And we want them to have the good things in life that you and I have had. I don't understand why these things — we shouldn't even think of this — we should pass it and go out of this room and all of us should be happy. Just look at these young faces. They are the greatest natural asset we have — our children. What is wrong in saying that we love them and we want them to be cared for. As God is my judge, I don't understand this. In the 21 years that I have been in this Senate, I guess maybe I am getting angry now too, Senator McLane, I have respected everybody's view, and I will respect your view and what you do with this bill. My God, pass this bill. Pass it, it is for your children, my children, my grandchildren. Pass it.

SENATOR FRASER: Senator McLane, I think you probably already know, but I have 15 grandchildren.

SENATOR MCLANE: You have eleven children, you're not doing very well. I only have five children and have ten grandchildren.

SENATOR FRASER: I believe in everything that is in HCR 7. I read it. I read it two or three different times, until I got to roman numeral IX. This is the one that has got me stymied. This is the one that I indicated to you I couldn't support the bill. If you can explain to me what roman numeral IX means?

SENATOR MCLANE: I guess you look at the word destiny. That it is their life and the right to participate in determining — participate. It doesn't say to determine, to participate in determining their own destiny. And I guess maybe that goes back to the old thought that father knew best at all times, where you were going to go to school, what your wore for clothes and I think that that is true today. Many people say this. I am thinking about the fact that you participate in determining their own destiny. What they do with their lives and where they are. Perhaps I look at destiny as meaning their fu-

ture, whether they are going to be a lawyer or whether they are going to be a farmer. The right to participate. It doesn't say the right to determine their own destiny. It doesn't say they can do anything they want. That is what I read. One of the letters I read said that they can say they are not going to go to school today and their parents can't do anything. That is bologna. What it says is that they should have a voice in their future. And that is how I read it.

SENATOR FRASER: I guess my problem is there is no definition in here, in HCR 7, as to what is a child. I know I have several children who went through college and along with their mother and father made that decision. But does this bill say that my grandson, who is in the seventh grade, that he should be able to participate in where he is going to go to the eighth grade? Tell me what that means, and I'll be glad to change my mind.

SENATOR MCLANE: I think that means that everyone has a future. And their future is determined by decisions that they make going up to that future, educational decisions and others. And that the child should have the right to have a voice in what their future is going to be. That is what that means to me. And I don't think it means at all that the child can say, "I am not going to go to third grade". That to me are the spectres that people are raising and they are the things that people are saying that are so false. The right to participate in determining their own destiny. It contains no boogeymen to me, because I think children should have the right to say "I want to be a lawyer, I want to be a doctor." For a young woman to say, "I want to be a doctor." Whatever, that is what it means to me. A right to have a say in your hopes for your future, your destiny. And I don't see it as saying "I don't want to go to school today" or "I want to wear those high heels to third grade that my mother wouldn't let me wear." That doesn't mean anything to me at all. I think it means that a child can have hope for the future by wanting what they want.

SENATOR COHEN: I rise in support of this bill and joining me and many of my colleagues in support of this bill are such wicked radical people as former U.S. Surgeon General C. Everett Koop; the Colbrook Board of Selectman; White Mountain Valley Kiwanis; Gate City Kiwanis; Concord Kiwanis; Nashua Kiwanis; Peterborough Kiwanis; Fred Plaist, the president of New Hampshire NEA; Martin Mitchell, the executive V.P. Blue Cross/Blue Shield; Wade Miller, Vice President Chubb Life; Patrick Duffy, Vice President New England Telephone; Susan Duprey; B.J. Eckard; Ruth Proux of the Girl Scouts. I also wanted to add that I, too, got many letters against this bill. Also none of them from my district. These are people who also spoke about being pro life. Well, I would venture say, and it has been



said before that these same people are pro life from conception to birth, not beyond that. To me, what this resolution does is simply state that children are people, they are not property. There are some people around now who still see children as mere chattels and as property, and I think it is time we moved beyond that. For the future, we don't need citizens who are just blindly subservient to authority. We need people to think for themselves and who have training, to be able to think for themselves and make good decisions. I strongly hope that we pass this resolution today.

SENATOR HEATH: Senator Cohen, you just said think for themselves. Do you endorse this concept of where they ink the children's feet to sign this document as an example of thinking for themselves or had a good mind of this, participating in their own destiny? Is that the kind of practical application of that concept?

SENATOR COHEN: Senator Heath, I understand your question, but I have to tell you, I don't see what that has to do with the body of the resolution here or what the intent of this is.

SENATOR HEATH: Senator Cohen, it may not have anything to do with but do you see a contradiction in these two activities, one where they take children before the age of any kind of reason, before the age of language, and have them put their signature to a document in such a silly fashion and the document says that they will participate in their own destiny? And you talk about the same sort of thing and you don't see that there is a contradiction in the attitude expressed in those contrary activities?

SENATOR COHEN: I don't think you'll get an argument that a child of that age is not able to act independently and think for his or her self at this particular point. But what this bill tries to do is address, as that child grows up, that this is something that we should strive for. This is a resolution that would simply strive to make, as children develop and grow, children able to think for themselves. Obviously, at that age, they are not able to. Nobody is disagreeing with that.

SENATOR HEATH: Senator Cohen, wouldn't you begin to worry, though, that the kind of interpretation that could be spun off of this so-called bill of rights if the people who are the proponents of it participate in those kinds of activities?

SENATOR COHEN: I certainly can't be the judge of all people who are supportive of all particular issues. It is not what is in question here.

SENATOR SHAHEEN: Senator Heath, you are not suggesting that the parents of those children should not have had the right to take those children to that kind of event and participate in it, are you?

SENATOR HEATH: No. I am suggesting only this. That when you do something as thoroughly phony as to imprint their approval on something that they don't understand that you bring about the whole activity a certain kind of suspicion of — to be generous, silliness; to be cynical, ulterior motives and emotional responses that are inappropriate. And that kind of activity tells more about the sponsors and the proponents of this kind of legislation than it does about the little children who had absolutely no idea about what was going on, except they end up with ink on their feet and their toes. That is what I am suggesting, I guess.

SENATOR SHAHEEN: So you would agree that parents do have the right to take their children to events that they support.

SENATOR HEATH: Oh, absolutely. But I guess I am always opposed when I see children who obviously do not understand the placard they are carrying or the balloon they are holding or the banner or the button they are wearing or the letter the grade school teacher has suggested they write with undue influence. I have always opposed the use of children in political activities that they don't understand, that they haven't had a chance to weigh the various sides. I think it is demeaning to the children. I think it shows lack of respect for the process and I think it, in a certain way, takes away some of the innocence of their youth at a time when I think they should be enjoying what is for the youth before they are forced into an adult world of controversy and so on. And when they do that before the age of understanding those issues that they are involved with, and they do it at the coercion, and that is what I have to label it — coercion, of adults, I think that is a very mild form of child abuse and I don't support it.

SENATOR SHAHEEN: Would you believe that I think it is important and that I have tried to take my children to various activities like that because I believe the way for them to learn and based on that as they get older, they can make up their own minds about whether they'll support an activity or not. But I think that is a very important learning experience for them to have.

SENATOR HEATH: I believe thoroughly. Because it happened to me and I think that may be one of the reasons I happen to be standing here today. That it is important to expose children to political activities and to expose them but to not coerce them into taking



sides until they have the ability to judge those sides and form opinions and understand what is going on. But to expose them to political activities, I think, is wholesome and one of the greatest things you can do. And you have done it today.

SENATOR COHEN: Am I understanding correctly that you are willing to go on record as being critical of groups such as those who baptize young children into a religious faith?

SENATOR HEATH: No.

Senator Disnard moved the question.

SENATOR COLANTUONO: I was a member of the Judiciary committee and sat through the whole hearing. And I had a lot to say at that hearing, myself. I won't repeat it, I'll be very brief. But the fact of the matter was, except for the sponsors and the specific supporters, none of the general public came in and spoke for this bill. It was all speaking against the bill. These were just hard working, every day types of people, parents, who are very much afraid of the implications of this bill. To my way of thinking, when the Legislature passes a resolution it should be something that is so overwhelmingly supported by everyone that there is no controversy about it. The problem with this is it has created a tremendous amount of controversy and fear among normal, average, everyday people and parents, who are afraid that the implications of this bill would result in the state driving a wedge between themselves and their children. The basic flaw of this bill, specifically, and you read it over a couple of time and it sounds wonderful but then you start thinking, who is the best guarantor of the rights of children under our society and our scheme where the family is the building block of society? The primary guarantors are the parents and the family setting. This bill, if you read it carefully, does not contain the word parent once anywhere in it. I don't believe it contains the word family anywhere in it. That is what has got people concerned. Then when you come down to the end of it where there is an implied threat in here that if a certain parent or a family are not taking care of their children in the manners implied by this bill, that the government is going to take their children away. There has to be a remedy according to this bill. I think a lot of normal, average, everyday people just saw this simply as another way for the government bureaucracy to drive another wedge between parents and children, to gain more power, to get more money to spend on programs. And basically, this Legislature shouldn't be in the business of making people fearful about having their rights as parents. The parents of this state, by and large, in a great majority, are very good to their children, they look out for

them, give them the rights and guidance that they need and that is why the average, everyday citizen, sending us letters and ringing our phone off the hook, is in opposition to this bill.

SENATOR MCLANE: Senator Colantuono, I have here some of the petitions. You don't think these are everyday citizens?

SENATOR COLANTUONO: I am sure they are, Senator, but I was speaking to the people who came to the hearing and testified on the bill itself.

SENATOR MCLANE: Senator Colantuono, did you think that the people who came in opposition to that, were the same people that we have seen at all of the anti-abortion performances and that they are the same people who have appeared on that and the living will?

SENATOR COLANTUONO: Senator, would believe that but I haven't been around long enough to compare and I can't answer that. But I might defer to Senator Nelson to answer that.

SENATOR NELSON: No, as a matter of fact, Senator McLane, there were a lot of other people besides the people who have come up before. There were many new faces from many walks of life, with many other interests in this bill other than the "fundamentalist right wing". That is all I have to say about that answer.

SENATOR HOLLINGWORTH: Senator Colantuono, in the time that you have been up here, I am sure you have received lots of calls from people on different issues. Do you usually respond to the people who shout the loudest or after viewing the information, do you make a decision of the merit of the legislation? Because you seem to imply that there were so many people that came forward that that is the reason for your support of this was they seemed to be the ones that had the loudest voice?

SENATOR COLANTUONO: I was against the bill when I read it without regard to any other input.

Recess.

Out of Recess.

SENATOR W. KING: I can hardly express what more eloquent testimony can we have to the hopes and dreams that we have for our children than what we just heard. I am waiting for the record to come out. It was wonderful.

I first want to say that I do not question any person in this body about how much they love their children or their grandchildren or children in general. Because I think we can all agree on that. Whether we are for this resolution or not, I think it is clear that



there is a sentiment in this body among all of its members that we have those same kind of hopes for our children and those same kinds of dreams for our children. Senator Shaheen and Senator Russman did a little tango around the issue of whether a resolution had the force of law, but it is very clear that a resolution indeed does not have the force of law in this body. We all stood together on a resolution over the Persian Gulf. No one nitpicked about language because we knew that the language of that resolution represented the aspirations of this body, represented our support to those troops who were serving in the Persian Gulf. We didn't nitpick over one word or another or what that might mean. The Declaration of Independence of the United States of America, "We hold these words to be self evident that all men are created equal and endowed with life, liberty and the pursuit of happiness." Would we have rejected that resolution because we were afraid that endowing people with liberty might mean that we would never be able to put anybody in jail for breaking the law? The Bill of Rights of the United States Constitution, the first amendment, the freedom of speech. Would we have rejected the Bill of Rights because we were afraid that somebody might scream fire at a crowded movie theater or might say something that we objected to? To this day, we have disagreements over those things. But those things are sorted out by the political process. Whether it is in the legislative branch or the judicial branch. The real specifics that come down over a resolution of this sort are those specifics that are decided by us. And I have tremendous faith in this body and tremendous faith in the judicial system and the legislative branch and most of the time in the executive branch that we are capable of making the decisions that effect the specifics that flow from a resolution of this sort. We agree on the spirit of the Bill of Rights of the United States Constitution. We agree on the spirit of the Declaration of Independence. We let the political process sort out the details. That is the way it should work. And I think we all agree on the spirit of this bill. That is why I would urge you to vote ought to pass on the pending motion and show that we all believe that children in the state of New Hampshire and children everywhere are entitled to enter into this world loved, nurtured and with opportunity for good health. We believe in these things. And that we are capable as Senators and that the Representatives in the House of Representatives are capable of sorting out the details of legislation in terms of whether it is the best public policy to protect the rights of parents and children and our society as a whole when it comes to those details.

SENATOR COLANTUONO: Senator King, I am glad you reminded me of another point. There was another flaw in this bill that is not

insignificant and you mentioned it in your own fine speech, the question of inalienable rights. And there is no question that our Declaration of Independence sets out inalienable rights, but it says very clearly that we are endowed by our Creator with those inalienable rights. And the reason they are inalienable and no government, king, president or legislature can take them away is because they are given to us by God. But in your talk and in this bill, it leaves out the words "by our Creator" and I was wondering if you believe that inalienable rights come from our Creator or come from the legislatures?

SENATOR W. KING: Senator Colantuono, we could go into a long, historical dialogue about Thomas Jefferson and his political beliefs and the beliefs of all of the people who wrote the Declaration of Independence. I do not believe that it was the intention to leave anything out that is not in the bill. It was done through negligence and it was not done purposefully. It was agreed upon by the sponsors of the bill that this would be the language and that there was no one intended to be offended by the language in any way.

SENATOR PRESSLY: I rise with a general concern and I would like to focus on that. My concern is sort of the tone of the arguments that has surrounded this legislation or this resolution. Most everyone that I have spoken with concerning it, those in support and in opposition, have all agreed that when they first read it, it just sounded great. It was sort of a nice statement of concern for our kids, there is not a single thing in here that if you were to just look at the words and interpret it as we know that there is nothing in here that any person could really disagree with. What appears to happen and what concerns me is that I hear people talking about other people's motives. They are talking about what they really mean is this. Well if you do this what if? I think it is dangerous in any debate and particularly something of this sort for any person to have the right or base a decision based on your assumptions of assigning another person's motive. If we did that on all of our legislation, and say "Ah ha, what do you suppose they really meant by this?" "What is going to come up next year?" "There is something in here that I don't understand", if we function that way as a legislature, we would get nowhere. It seems to me that we have a responsibility as a civilized society to look at the words and to not decide, arbitrarily . . . In fact, it defies our whole system of government to accuse somebody or a group or anybody of having a motive that is not even reflected in the language. I would hope that we start to examine when people call you or call any of us, or make a point, and they start accusing someone of something that is not in the legislation. Do people have a right to assign motives and then for us to base a decision on something



that is not there and where someone else has chosen to interpret what is in the mind of someone else? We have no way of knowing that. All we can do is look at the language, study language and actions. And I would hope when I hear people talk of rumor, fear, assigning motives, these bizarre accusations that are not in the language. I think it is extremely dangerous. When we talk about how this is going to affect other people, the parents, the family, that is not the point. This is just a point to talk about what everyone would dream and hope and want for every human being in our society. It is nothing more, nothing less. It is simply wonderful words. And I would hope that we as a body would not judge this legislation or any legislation on trying to decide what exists in someone else's head. Because we are never going to know that. I say please, judge this for what these words say. And forget the what ifs. These words are simple. They are straightforward. It is hard to think that anyone could not hope and dream these words and these ideals for every citizen of our country. Please do not judge this on what you have been told is in the head of somebody else. Please judge this for what it says. Thank you.

SENATOR NELSON: I rise in opposition to the pending motion on the floor. And I love children, have three of my own and have taught school for years. What we are voting on is rhetoric. There already exists a poster in a beautiful blue, with lovely white background and the lettering in black. I support everything for children and my voting record indicates that. But to suggest because we do not support this that we are less in favor of children, that we are wicked, that we don't understand is offensive. This piece of resolution is rhetoric. The real bill of rights around this place ought to be the nurse practitioners act. It should be the child pornographic law that keeps those child pornographers off the street affecting our children. It means rights in education with the proper funding to go along with. It means children in need of service ought to get them. That is what the bill of rights is. I am opposed to this because it is rhetoric. It does nothing. I commend the individuals who wanted to make a statement, who care about children as much as I do. I think they should hang their posters on every byway and highway and every where else they want. But it doesn't belong in here, because the thing doesn't go far enough.

SENATOR HUMPHREY: Generally on cardinal issues of this kind, Senators have made up their minds before they come to the floor and I suspect that is the case today. Nonetheless, I wanted to state a few thoughts for the record. Primarily, this is not a debate about children. There have been a number of heart warming and touching allusions to children in this debate. I think Senator Blaisdell best

put his finger on it when he said that children are the nations most valuable resource, or something very close to that. That is true. Children are a nation's most valuable resource. They are our most valuable resource. But there is nothing unique about the United States in that respect. Children in every nation are that nation's most valuable resource. And the parents in every nation love their children just as dearly as we love ours. That isn't the subject of the debate. Primarily this debate is about the proper realm of government versus the proper realm of parents. That is what this debate is about and that is why it is so important. And that is why it has engendered so much controversy. The proponents of this bill would have us believe that it amounts to nothing. That it is simply a resolution and it means nothing. We pass it, "Don't worry, Be Happy", feel good. And this will all go away. This is never going to come before us again. Well, ladies and gentlemen, let's not pretend we are naive. Let's not act as though we are innocent. We are politicians. We know what it means to frame the issue. And that is what this resolution is all about. This is not the end of the effort on the part of the proponents. This is the opening gun in a battle to aggrandize government. To enlarge the sphere of government at the expense of the proper sphere of parents. That is what this is all about and that is why so many parents are concerned about it. And you needn't go any farther than the language of the bill to see the cause of their concern. Some of this is just mush. There is some real goo, goo in here which is cute and is harmless like "children are endowed with certain inalienable rights", among them the "right to cures for their ills and comforts for their hurts". Of course. We can live with that kind of goo. But you get over to article 9 and there is the heart of it. "The right to participate in determining their own destiny". If that isn't the opening gun on an attack upon parents rights, then I have never seen one. I am not worried about mandatory education, Senator McLane, because there is a law requiring mandatory attendance. Somebody raised the issue of church. Well, is a five year old or for that matter a fifteen year old to decide whether to go to a house of worship on the Sabbath? Are parents to say Johnny or Sussy, let's have a little conference, the Sabbath is coming up, let's debate the relative merits of going to the house of worship versus going somewhere else on the Sabbath? Clearly, that is the direction in which this article 9 leads us. Children are children. And they are treated as children under the law because they are immature, and their judgment is faulty. And sometimes, I think it is worse at fifteen than it is at five. This is clearly the opening gun on a campaign to aggrandize the powers of what I would call child welfare industry. Probably the fastest growing industry in America. Too bad we can't export it. Too bad we can't export all of it and be rid of it. But it would be a curse



on those to whom we exported it, let me say. This is yet another attempt to undermine parental authority in the guise of goo goo and apple pie. An attempt to undermine parental authority and give even greater authority to the child welfare industry in the private and in the public sector, which is to say government. A resolution often is harmless and meaningless. But not this one. This clearly is an attempt to frame the issue for years to come. And if you pass this, and whether or not you pass it, I guarantee you we are going to be facing this same question over and over again in various forms. So let's start off on the right foot. Let's not pretend this is about children. Let's face up to the fact that this is about the relative spheres of parents and the proper spheres of parents versus that of government and the child welfare industry in general. That is what it is all about. That is why it has engendered controversy and if this resolution means nothing, then why did the proponents go to such extent as to convene a caucus to draft the thing and to push it through this body. Clearly, they think it means something. Clearly, it does. In my view, it means the wrong thing and I am against it.

SENATOR MCLANE: I thought it had all calmed down. "Don't worry, be happy". It is your saying that the comfort for their hurts is a bunch of goo goo. And it has to do with child abuse which is rampant in this state. I ask the Senators to go to the public hearings on child abuse. The stories out of those hearings would curl your hair, what is left. That is not a bunch of goo goo. And my question to you is, do you not think that this resolution speaks to the amount of child abuse that is going on in this state as we speak?

SENATOR HUMPHREY: I am perfectly prepared to accept that article. I think it is goo goo. I continue to insist that it is goo goo. But that isn't the part that worries me. There is some really pernicious stuff in here and that is what worries me.

SENATOR OLESON: I didn't come prepared to speak on this subject to tell you the truth. Nevertheless, I have been in the minority for so long, I thought I would join the crowd today. I am disturbed that even this resolution had to be thought of. I hate to think that our society has deteriorated so far that we have to be reminded about how we should treat our children. Right or wrong, I have to go back to my past experience. It might be wrong, and today there are so many people on the other side of the fence from what I am it really disturbs me. But I look back on my own life, and I had so darn many rights you couldn't shake sticks at them all. I had the right to please my parents. I had the right to please my grandparents. I had the right to please my teachers. And even my neighbors. And if I didn't please, I might have suffered the consequences, too. And it

didn't take any resolution to remind me what the consequences might be. When I look at this, I look at interference from the government in family lives to a certain extent. I know what is necessary. But I think, fundamentally, we can show whether we are caring people here by how we fund our budget this session in many different categories, in spite of the hard times that are upon us. I still think this is an interference. I don't like it. Maybe it is necessary. I could be wrong in my vote. I still have to think that it is interference in our lives and I don't care for too much governmental interference.

SENATOR HOUGH: I rise in support of the McLane substitute motion of ought to pass. I do that as a co-sponsor of this resolution. I am very proud to be a part of this resolution. We have had our brothers in the legal fraternity address the question of whether or not this has the force of law and how meaningful it is as a resolution. I would only tell you one thing. And I am sure they can agree with me on this point. It clearly is an expression of legislative intent. And there are times when the courts will ask what the intent of this body was on the actions that we take. I think it is not only fitting and proper that we move in a positive manner on this resolution because it is a recognition, clearly, of the rights of children. Virtually every member of this body has risen to speak. And as they speak, they bring to it their own point of view on this issue. But I think we also have an overriding issue in support of this resolution and that is the question of parenting and what is parenting. That is something that I dare say never could be put into legislation. It is evolutionary and it is our nature. And as we have seen Lindsay Dupont in past weeks on this Senate floor, I know Andrew and David Hough of that age have now grown to the point of where Andrew will soon be entering college and it is not that Susie and I had anything special or any great talents in being parents. But I dare say that you must recognize that there virtually is not a minute of our waking day that our energies are not committed to involvement with them. And that involves T-ball coach as you so well have indicated that is where it all starts and it goes. And there isn't a game, summer, winter, fall, and spring that we are not caught up in it. And as the kids have grown and matured, it has taken a degree of involvement. And there isn't a parent in this room who hasn't been equally involved with their children and we all are proud of our children. But none of us has the secret to parenting. And there isn't a one of us who is a parent that isn't scared at every moment that we will fail. But we are committed to our children and we are protecting our children when we recognize that they, too, are not property but have rights. And so in conclusion, we should vote for this piece of legislation. It is meaningful. It does indicate legisla-



tive intent. And we recognize our youngsters as having rights and it is important for us to continue to protect them.

Senator Disnard moved the question.

Adopted.

A Roll Call was requested by Senator Hollingworth.

Seconded by Senator Cohen.

The following Senators voted yes: W. King, Hough, Blaisdell, Pressly, St. Jean, Shaheen, Hollingworth, Cohen.

The following voted no: Oleson, Heath, Fraser, Disnard, Roberge, Bass, Nelson, Colantuono, Podles, Humphrey, J. King, Russman, Delahunty.

Yeas: 8

Nays: 13

Paired votes were: Senator Currier and Senator McLane.

The substitute motion of Ought To Pass Fails.

Senator Colantuono moved Inexpedient To Legislate.

Committee Report Adopted.

**CACR 11**, relating to jury trials. Providing that a 12-person jury is required in capital cases and when imprisonment may be more than one year, but that other juries shall consist of 6 persons. Judiciary committee. Ought To Pass With Amendment. Senator Russman for the committee.

**SENATOR RUSSMAN:** I hope we don't take as long for this measure as the last one. The House passed a version where you would have a six man jury trial. This could also be called the Leo Fraser relief act as well. I want to take credit and let him know publicly that Senator Colantuono and myself support this bill. The amendment came in committee. We decided at one point to request an eight man jury trial as opposed to a six man. And after a little more thought on that and a little more reconsideration and a talk with some other parties that had learned we had come up with an eight person instead of a six person, we have decided that a six person is really the way to go. That is what you have in other states who have adopted this type of thing. And you will see that in the handout that was put together by Senator Podles. So what needs to be done, as a practical matter here, we need to have you defeat the amendment. So we ask you to vote no on the amendment because that makes it an eight person. And then ask you to vote yes on the bill as it stands and that way it will be a six person and that is what the House passed. That

would be the process we would hope you would follow. You would vote no on the amendment for the eight person and support the committee recommendation of six person which is what the bill was when it came over from the House. So voting no on the amendment and yes on the bill would create a six man jury process in certain specific cases, not all, but in some that we think would be appropriate.

### Amendment to CACR 11

Amend the title of the resolution by replacing it with the following:

RELATING TO: jury trials.

PROVIDING THAT: a 12-person jury is required in capital cases and when imprisonment may be more than one year, but that other juries shall consist of 8 persons.

Amend Art. 16 as inserted by paragraph I of the resolution by replacing it with the following:

[Art.] 16th. [Former Jeopardy; Jury Trial in Criminal Cases.] No subject shall be liable to be tried, after an acquittal, for the same crime or offense. The legislature shall not make any law that shall subject any person to a capital punishment, (excepting for the government of the army and navy, and the militia in actual service) or to imprisonment for more than one year without trial by a jury of 12 persons. **No person shall be subjected to imprisonment for one year or less without a trial by a jury of 8 persons.**

Amend Art. 20 as inserted by paragraph II of the resolution by replacing it with the following:

[Art.] 20th. [Jury Trial in Civil Causes.] In all controversies concerning property, and in all suits between 2 or more persons except those in which another practice is and has been customary and except those in which the value in controversy does not exceed \$1,500 and no title to real estate is involved, the parties have a right to a trial by **a jury of 8 persons**. This method of procedure shall be held sacred, unless, in cases arising on the high seas and in cases relating to mariners' wages, the legislature shall think it necessary to alter it.

Amend Art. 77 as inserted by paragraph III of the resolution by replacing it with the following:

[Art.] 77. [Jurisdiction of Justices in Civil Causes.] The general court are empowered to give to justices of the peace jurisdiction in civil causes, when the damages demanded shall not exceed [one hundred dollars] **\$100** and title of real estate is not concerned; but with right of appeal, to either party, to some other court. And the general court are further empowered to give to police courts original juris-



diction to try and determine, subject to right of appeal and trial by a jury **of 8 persons**, all criminal causes wherein the punishment is less than imprisonment in the state prison.

Amend the resolution by replacing paragraph VI with the following:

VI. That the wording of the question put to the qualified voters shall be: Are you in favor of amending the constitution to provide that 12-person juries shall be required in capital cases and in cases in which imprisonment may exceed one year; but that, in civil cases and in cases in which imprisonment may be one year or less, an 8-person jury shall be required?

### AMENDED ANALYSIS

This constitutional amendment-concurrent resolution requires an 8-person jury in civil cases and in non-capital criminal cases when imprisonment may be less than one year.

Amendment Fails.

3/5 vote required.

The chair requests a division vote.

Yeas: 22

Nays: 1

Ought To Pass.

Ordered To Third Reading.

Recess.

Out of recess.

Senator Podles in the chair.

**HB 52**, an act relative to group health insurance participation by members of the general court. Insurance committee. Ought To Pass. Senator Bass for the committee.

**SENATOR BASS**: This bill gives legislators the right to buy into the health insurance plan offered state employees. It will not cost the state a cent. And the committee urges your support of the committee position of ought to pass.

Adopted.

Ordered To Third Reading.

**HB 413-FN**, an act relative to penalties for insurance laws violations.

Insurance committee. Ought To Pass. Senator Colantuono for the committee.

**SENATOR COLANTUONO**: This bill was a request of the insurance department and it updates the penalty sections in some of our

insurance laws. Presently the only penalties are a misdemeanor but there are no provisions for civil penalties to allow the department to assess their own without having to go through the courts. This bill simply adds the ability of the department to assess civil penalties or administrative fines in the amount of up to \$2500 for these various categories of offenses.

Adopted.

Ordered To Third Reading.

**HB 573**, an act relative to unauthorized insurance. Insurance committee. Ought To Pass. Senator Russman for the committee.

SENATOR RUSSMAN: This was another of a myriad of fascinating insurance bills that I am please to report that the committee would ask that you pass. What this does is it is relative to unauthorized insurance and basically, if somebody sells you insurance that doesn't exist, they are responsible. You would think that that would have been a law by now, but apparently in some fashion it isn't. This was a request by the insurance department. We would urge your passage so that we have people and we can hold them responsible for selling nonexistent insurance.

Adopted.

Ordered To Third Reading.

**HB 574-FN**, an act relative to managing general agents. Insurance committee. Ought To Pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This was another one of the bills requested by the insurance department for the purpose of conforming to the recommendations of the NAIC, which is the National Association of Insurance Commissioners, to make sure that we continue our accreditation with that body. This bill establishes a new section of the statutes which will be RSA 402:E and it regulates managing general agents, which presently have no regulation. It sets out some definitions and provides for licensure of them. It sets out required contract provisions between them and their companies. And it sets out penalties. There was no controversy. Commissioner Nichols was the only speaker on the bill and the committee would request an ought to pass recommendation.

Adopted.

Ordered To Third Reading.

**HB 575**, an act relative to liquidation and rehabilitation of insurance companies. Insurance committee. Ought To Pass. Senator Delahunty for the committee.



SENATOR DELAHUNTY: HB 575 is not a new law in New Hampshire. It is merely an update of a law that we already have. There are increased accounting requirements and changes made to the activities that the insured may take part in while being rehabilitated. We do not necessarily have a problem with insurance companies of New Hampshire, please let me reassure you in that aspect. However, this is model legislation and it is preparation for the future.

SENATOR BASS: Senator Delahunty, why does this notice on page 2 have to be pursuant to RSA 361:A?

SENATOR DELAHUNTY: It just so happens that I have my notes here, but the committee secretary must have left those off the hearing notes.

SENATOR BASS: Senator Delahunty, I just noticed the answer in my own notes.

Adopted.

Ordered To Third Reading.

**HB 580**, an act relative to insurance rebates and automobile financing.

Insurance committee. Ought To Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: This bill is not one of the myriad of usual insurance bills. This one is quite different. This is a real consumer bill. This would require the holder of a real estate installment contract which requires premiums for insurance to notify the insuring company and the buyer within thirty days if the installment contract is paid in full. Such notification shall indicate that a refund is due to the buyer for any unused said premiums. We hope you will vote this out ought to pass.

Adopted.

Ordered To Third Reading.

**HB 589-FN**, an act relative to holding companies. Insurance committee. Ought To Pass. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill is another one of the requests of the insurance department. It is model legislation from NAIC. It brings our holding company statute into conformity with their model legislation. It adds procedures and standards for acquisition and mergers of holding companies. And creates further administrative fines. The committee urges ought to pass.

Adopted.

Ordered To Third Reading.

**HB 638-FN**, an act relative to credit for reinsurance. Insurance committee. Ought To Pass. Senator Delahunty for the committee.

SENATOR DELAHUNTY: This bill is part of the model legislation reform. It contains two parts. The first part delineates the standard by which domestic insurance companies are permitted to account for the reinsurance contracts they enter into. To reinsure is to insure again by transferring to another insurance company all or a part of a liability assumed. This tells our insurance companies how it will show up on their balance sheets. The second part of the bill deals with re-domestication and simplifies the procedure by which insurance companies can move from one state to another.

Adopted.

Ordered To Third Reading.

**HB 692-FN**, an act relative to reinsurance intermediaries. Insurance committee. Ought To Pass. Senator Russman for the committee.

SENATOR RUSSMAN: This again continues the insurance departments efforts to try and bring us into compliance with National Association of Insurance Commissioners. It will generate additional funds for New Hampshire to some degree. And it basically creates a regulatory scheme for intermediate insurance.

Adopted.

Ordered To Third Reading.

Recess.

President Dupont in the chair.

**HB 127**, an act establishing Civil Rights Day and abolishing Fast Day.

Public Affairs committee.

Majority Report of Ought To Pass With Amendment. Senator Delahunty for the Majority.

SENATOR DELAHUNTY: I want to begin by thanking the majority of the committee for giving me the honor of reporting this bill out. HB 127 establishes a civil rights holiday on the third Monday in January. HB 127 eliminates Fast Day as a state holiday and replaces it with a civil rights holiday so there is no net effect on the service that is to be provided by state and local government employees to



the people of the state of New Hampshire. By replacing Fast Day with Civil Rights Day, it is the intent of this bill to recognize the courage, determination, and personal sacrifice of the many people from a variety of cultural backgrounds who fought and died in the struggle to gain freedom and equality for all individuals. This bill has the support of the Governor and represents the best chance we have this session to bring New Hampshire in line with the rest of the Union in recognizing the importance of civil rights. Unlike the rest of the nation however, the majority believes that it is inappropriate to limit the significance of this holiday by naming it for one group of people or for one individual to the exclusion of the countless others before us who sacrificed their lives and fought to defend our freedom to exercise our civil rights today. The majority of the Public Affairs committee has recommended that HB 127 ought to pass with the amendment which appears on page 10 of today's Senate calendar. The amendment offered by the majority deletes language in section 2 of the bill which we found unnecessary in setting forth the essential purpose of the bill. Unlike the amendment offered by the minority, the major amendment does not alter the original intent of HB 127. New Hampshire has a proud tradition of refusing to go along blindly with the rest of the nation for the political expedience or to knuckle under to the pressure of special interest groups. I ask my colleagues to support the majority report of ought to pass with amendment.

Minority Report of Ought To Pass With Amendment. Senator W. King for the Minority.

SENATOR W. KING: I rise in opposition to the committee report and ask that you vote down the amendment on this and that you vote with me on the amendment that is in the Senate calendar that reflects the will of this Senate that we voted on two months ago. Yes, there have been many people who have played a significant role in the civil rights movement. Many people, who over the years both black and white, jewish, gentile, rich, poor, who have played an important role. There is only one person who has played a key role in the civil rights movement and that is Dr. Martin Luther King. At a time when anger could have turned to violence and torn this country apart, at a time when people like Rap Brown and Stokely Carmichael were standing up in front of crowds saying burn the system down, it doesn't serve us - tear it down, at that time Dr. King came forward and said wait a minute. There is nothing wrong with the structure of the system that we can't make this work. There is nothing wrong with the Bill of Rights of the United States Constitution that grants us the freedom to peacefully assemble and speak our minds. And people came together around that leader. And so we

were able to accomplish what people before that had been unable to accomplish because of the leadership of one man. Yes, many people contributed to the civil rights movement. Many people contributed to the gains that we have made in this country. But there is only one person who really brought Americans together to say that whether we are black or white, rich or poor, as Robert Kennedy said, "we have one thing in common and that is the name American." It is not easy to know what that means. But, in part it means to have come to this land an outcast and to have been taken in and to know that he who denies the outcast among us, denies America. Martin Luther King brought Americans together to work for civil rights and human rights for all people. And it is appropriate that we the Senate hold firm to our position that this should be called the Martin Luther King Human Rights Day. I will present our original bill as an amendment, if you will kindly vote no on the committee report.

SENATOR COHEN: I rise in opposition to the majority report and in support of the minority report. I would like to begin with a quote from Ronald Reagan. "Dr. Martin Luther King was a drum major for justice. A giant whose life was a testament to the American ideal that one man can make a difference." Some have said that if we get a bill for civil rights day that we have won 99 percent of the battle. I don't believe that to be true. Because Martin Luther King was about a lot more than just civil rights. The bill, as it is written now, talks a lot about the civil war. We need to talk about Martin Luther King. The message of Martin Luther King is more than civil rights. It is a message that you need to act on moral vision and injustice cannot be tolerated even at the expense of great personal risk. Martin Luther King is about more than just civil rights. It is about acting on the principles of the founders. That we have a right and, indeed, an obligation to speak out in dissent and that silence and passivity in the face of injustice are the same as acquiescence. That is more than just civil rights. The message of Martin Luther King is that we have to be prepared to pay the price for speaking out and speaking against injustice. The message of Martin Luther King and the importance of having his name on this bill is that the future requires more such people who are unafraid to speak their conscience and that is a lot more than just civil rights. So I urge support of the minority report and a vote against the majority report.

SENATOR HEATH: Senator Cohen, is Ronald Reagan the individual you take moral guidance from, now?

SENATOR COHEN: Senator Heath, every now and then, I agree with Ronald Reagan. Every now and then, I agree with some other Senators here that I don't always agree with.



PRESIDENT DUPONT: So that everybody understands we will be taking a vote on the majority report first. If that is not successful or if it is successful, we will vote on the minority report either way. The amendments are what we are talking about. The majority amendment which would be Civil Rights Day. The minority amendment which would be the Martin Luther King Day. However, the first amendment we will be dealing with will be the majority report of the committee.

SENATOR COLANTUONO: Senator Bass, I am speaking to the amendment on page 10 and as I review that it seems to take out some language from the original bill on page 2, which I consider to be fairly important. The language refers to the fact that this bill is being passed in recognition of the civil war, which gave freedom of individual rights from the bonds of slavery and which was the one proud moment in our history where our nation decided that we really meant what we said in our founding document when we said that all men and women are created equal and deserving of rights. I am somewhat concerned about the removal of that language, because, frankly, Martin Luther King and what he represented might never have gotten to where it did without the civil war. So can you explain the reason why the committee majority removed that language from the bill?

SENATOR BASS: Certainly, Senator Colantuono. As we all have seen in seven hours of wonderful documentary on the civil war, the civil war was fought for a number of different reasons, not only for the emancipation of slavery or blacks but also to preserve the union. And it was felt by the majority of committee that to make the statement that the nations greatest battle was fought for the freedom of individual rights from the bonds of slavery was not necessarily an accurate — did not reflect an accurate understanding of the complexity of motivations that went into the reasons why we fought that war in the mid-nineteenth century.

SENATOR COLANTUONO: Senator, I have shown you this article from the Nashua Telegraph before, dated Monday April 2, where Ken Burns talked about his series. And he said in here about the civil war “all other issues could have been compromised. The cause of the war, unequivocally, was slavery.” Do you agree that Ken Burns was correct when he said that?

SENATOR BASS: Well, I believe that if he said that in the newspaper and it was quoted by him, that he said that.

SENATOR COLANTUONO: If members of this Senate felt strongly that the civil war was the defining event in the history of securing civil rights for all individuals in this country and want that

language put back in there, especially to recognize the fine and valiant service that New Hampshire men and women gave during that war, would we vote to defeat the committee amendment and then support the bill?

SENATOR BASS: Senator Colantuono, I am hoping that you will vote to support the committee amendment because the inclusion of language regarding the civil war is just another issue, in my opinion, that is peripheral to the key issue which is the celebration of the third Monday in January as a Civil Rights Day as is envisioned by HB 127. I would urge and hope that you would support the committee report, which I will speak to in a minute.

SENATOR SHAHEEN: Senator Bass, do you believe that the real issue in HB 127 is whether or not we recognize the role that the civil war played in our history or do you believe that the real issue here is eliminating Martin Luther King's name from this bill?

SENATOR BASS: I don't believe either of those. This Senator's position is that neither of those issues is the issue before us today.

SENATOR SHAHEEN: What do you believe the real issue before us today is?

SENATOR BASS: I will be speaking to it in a minute. Do you want to wait or do you want me to answer it now?

SENATOR SHAHEEN: I would like to hear you answer it.

SENATOR BASS: I believe that, in short, the real issue before us today, is whether or not we want a holiday on the third Monday in January or whether we want nothing.

SENATOR BASS: I would like to begin by associating myself with the remarks of Senators King and Cohen, who I think very clearly brought to this body the significance and importance of Martin Luther King and the role that he played as a leader for civil rights in this country. I guess as chairman of Public Affairs committee and one who voted in favor of SB 229 when it came before this body, I have no problem standing here supporting HB 127 as the committee voted to amend it. Because when all of the eloquence that we heard dies down, I think that each Senator needs to understand and needs to think about what the true objective of this effort is now and has been for the last four or five years and that is to move towards celebrating the third Monday in January as a holiday commemorating either Martin Luther King or civil rights. As I have said many times before, the situation we have before us now is concurrence on the part of the House for this bill, the potential for concurrence on the part of the Senate and hopefully the concurrence of the governor. So



that we will end up with 98 percent of what we could never get for the last ten years or the last twenty years that this issue has been before the legislature. The issue of whether or not the holiday is given the name Martin Luther King or not, is not a dead issue. SB 229 is still in the House. The House can do with SB 229 what it desires, and I will urge the House to rerefer it to next year, so that the issue of the name of Martin Luther King can come before us in less than a year. And I want to ask those individuals who support Martin Luther King holiday, do you want 98 percent of the pie now or nothing? Because by voting against the committee position, you run the substantial risk of having nothing. This is a little bit different from the situation we faced in the past, because although the House may reject and refuse to concur with the Senate position on HB 127 and thereby killing the issue completely, and although we can stand up here and say we supported Martin Luther King's birthday, it is my feeling that those individuals who vote against this bill, for all the greatest reasons in the world, will ultimately be held responsible for the fact that we may not celebrate that holiday a year from now, this Monday. And quite frankly, I hope that we adopt what is the most expedient role, the surest path and the most prudent path for those individuals who truly feel that we should give this date the recognition that it deserves and join the rest of the country. Understand the rhetoric, but move ahead. Vote for this amendment and get this issue behind us.

SENATOR HUMPHREY: Senator Bass, for those of us who supported the Senate bill, it becomes a question of which is the better outcome today. To leave the holiday where it is, where everyone agrees is a holiday that no longer has any significance and thus presumably provides the greatest motivation to enact the bill next year that the Senate enacted this year, or whether those of us who support naming the holiday after Martin Luther King are better off by taking what you describe as 98 percent, I don't quite see it — I'd say 51 percent at best, whether that is the better situation. It seems to me if we rename it Civil Rights Day, and move it up to coincide with the Martin Luther King birthday holiday that maybe we lose the momentum towards specifically naming it in New Hampshire for Martin Luther King holiday. Maybe there is more dissatisfaction and tension, if you will, if we leave Fast Day in place. I am not sure, frankly. It is a tough call. But I ask the Senator to respond to my questions.

SENATOR BASS: Senator Humphrey, one of the oldest tricks in the book, used in many instances by former Senate Presidents to kill a bill was to support it but to support it in such a pure form that the individual was sure the thing would die ultimately in a great confla-

gration. I know that the opponents of the committee position don't hold that. Because I know how dedicated they are to Martin Luther King. The votes are where the votes are. The same individuals who are in the Senate now, are going to be here next year. And the same goes for the House. The issue of having 51 percent versus 98 percent is of no consequence to me because I know that even if I accept your position that this is 51 percent of the pie that we will have the opportunity to at least get the other 49 percent next year. And the spectre exists that we may get neither. And I would join the position of some of the sponsors of SB 229, those individuals who have given their own sweat and blood for a long time on this issue and support the committee position and accept the Civil Rights Day. And then I am willing to join you next year and other members of the Senate and the House in pushing for the name Martin Luther King.

SENATOR MCLANE: I love this debate. There is no room in here for those people who say that Fast Day is one of the great holidays and we shouldn't be dropping it. I used to pull this technique on my children. I never said do you want to go to bed. I always said do you want your mommy or your daddy to take you upstairs. And that is just what we are offering today to you. Do you want the pure version of Martin Luther King or do you want Jackie Domaingue's Civil Rights Day. And it is a great choice. You can all take it and you'll all be voting for a very important principle, which is that human rights and individual rights have a place in our constitution and in our nation and they should be celebrated as such. Now, Bishop Theuner, the Episcopal Bishop of New Hampshire, took me aside on Sunday and said "Susan, go for the blue. You have to stick with Martin Luther King." And he had a very interesting point. He said this is a bill about individuals. It is a bill about individual rights. And to delete the individual from the title takes true meaning from the bill. I looked at him and it is interesting. I used exactly the same phraseology as my dear friend, Senator Humphrey, on this issue. And I said we have 51 percent of it. We have the Monday and we have gotten rid of Fast Day. But we do not have the name. The last time I spoke to you on this issue, I had done a careful count and the Union Leader had had 103 editorials ranting against Martin Luther King. They have had seven since then. For that reason, I think, I am going to stick with Senator King and go for the gold, the Martin Luther King. But, I am happy to lose to the other side, if this can carry forward. Senator King was afraid after the last vote here, that I had gone home mad. I didn't. I went over to the Executive Departments committee who were hearing the bill on prescription birth control. And while I was there and had finished my discussion of this bill, they asked me, first of all, how did this bill get past the Senate. And



I said it is a very conservative body and it proves what a good bill it is. But they then asked me about Martin Luther King and what we are going to do. I would like to give them the opportunity to go to them in a Committee of Conference and say "The Senate still thinks we ought to have the name." And then they have the choice. If they want, I don't think we are risking killing the bill, we have two live bills at this point, and I think if we go to them as a body and say "look, we are all for the holiday. The majority believe we have the votes and are for Martin Luther King Day. What do you think?" If they can truly say there is no chance you will get it on the floor of the House, I find that hard to believe. But if they really say that, we are not going to lose it. We'll put our tail between our legs and say rerefer your bill, so we can try this again, and we'll take the fifty one percent. So I plan to vote for Senator King's amendment because I believe he is the lead sponsor. It has been a hard choice. We have met as the group of ten sponsors many times. We still haven't resolved it. But I'll go with Senator King.

SENATOR J. KING: Senator McLane, do you believe that there would be any discussion of civil rights day today, two years ago or two years before that if there wasn't a Martin Luther King ten or fifteen years ago?

SENATOR MCLANE: I absolutely don't. And I don't ever plan to call it Civil Rights Day. I'll swear to it right now. I am going to call it Martin Luther King no matter what anybody decides.

Senator Blaisdell requested the chair move the question.

SENATOR W. KING: If I want to support the original intent of this Senate would I now vote no on the motion to amend this bill to Civil Rights Day and then vote yes on the following amendment?

PRESIDENT DUPONT: The question before us is the adoption of the majority report of ought to pass with amendment.

SENATOR DISNARD: If this is defeated and since the Wayne King version of the question, would the original bill be voted then or what would be the procedure?

PRESIDENT DUPONT: The second procedure would be that the bill would still be on ought to pass and the minority report amendment would be voted on at that point in time. What you are voting on at this point in time is the ought to pass with amendment recommendation of the majority. Regardless of which amendment is adopted here today, it will go back over to the House for their concurrence, so this is not the end of the process. The House, at that point in time, could decline to appoint a committee of conference. That is one of the risks you take when you send it back over to the House.

**Floor Amendment to HB 127**

Amend the bill by replacing all after section 2 with the following:

3 Holiday Falling on Sunday. Amend RSA 288:2 to read as follows:

288:2 Falling on Sunday. When any holiday listed RSA 288:1 falls on Sunday, the following day shall be observed as a holiday. **For the purposes of state employee contracts, Martin Luther King Human Rights Day shall have the same status as Fast Day.**

4 Effective Date. This act shall take effect 60 days after its passage.

**Amendment to HB 127**

Amend the title of the bill by replacing it with the following:

**AN ACT**

relative to a Martin Luther King Human Rights Day.

Amend the bill by replacing all after the enacting clause with the following:

**1 Purpose.**

I. The general court finds and declares that it is the duty of every citizen to recognize the responsibilities undertaken and the accomplishments made by our nation's founding forefathers and the political leaders throughout American history who succeeded them. These individuals and countless others risked their lives to forge a new nation, immortalizing in the words of the United States Declaration of Independence the decree that all people of this nation shall be afforded life, liberty, and the pursuit of happiness. This decree must be carried forward today, to future generations, if the dreams that our forefathers and American historical leaders had for our nation are to be fulfilled.

II. While all the people of this nation who fought to secure a country dedicated to the dream that "all men are created equal" are a symbol of that struggle, Dr. Martin Luther King, Jr. is a symbol of the ongoing struggle to extend that dream to all Americans and to cast a light of example to all people of this world. Therefore, the general court finds that it is in the public interest to recognize the vision of Dr. Martin Luther King and the value of the human rights movement to America and the world by declaring the third Monday in January as Martin Luther King Human Rights Day.

2 Holiday Replacing Fast Day. RSA 288:1 is repealed and reenacted to read as follows:

288:1 Holidays. January 1; the third Monday in January, known as Martin Luther King Human Rights Day; the third Monday in February, known as Washington's Birthday; May 30, known as Memorial Day; July 4, known as Independence Day; the first Monday in Sep-



tember, known as Labor Day; the second Monday in October, known as Columbus Day; the day on which the biennial election is held; November 11, known as Veterans Day; Thanksgiving Day, whenever appointed; and Christmas Day are legal holidays.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes the third Monday in January, to be known as Martin Luther King Human Rights Day, as a state holiday and eliminates the fourth Monday in April, known as Fast Day. The bill also rearranges the wording of RSA 288:1 so that holidays are listed in chronological order.

A Roll Call was requested by Senator Hollingworth.

Seconded by Senator Shaheen.

The following Senators voted yes: Heath, Fraser, Disnard, Roberge, Bass, Colantuono, Podles, Russman, St. Jean, Delahunty.

The following voted no: Oleson, W. King, Hough, Pressly, Nelson, McLane, Humphrey, J. King, Shaheen, Hollingworth, Cohen.

Yeas: 10

Nays: 11.

Paired Votes were: Senator Blaisdell and Senator Currier.

The Majority Amendment Fails.

The Minority Amendment is Adopted.

Senator W. King offered a floor amendment.

### Floor Amendment to HB 127

Amend the bill by replacing all after section 2 with the following:

3 Holiday Falling on Sunday. Amend RSA 288:2 to read as follows:

288:2 Falling on Sunday. When any holiday listed RSA 288:1 falls on Sunday, the following day shall be observed as a holiday. **For the purposes of state employee contracts, Martin Luther King Human Rights Day shall have the same status as Fast Day.**

4 Effective Date. This act shall take effect 60 days after its passage.

Floor Amendment Adopted.

Ordered To Third Reading.

**HB 398**, an act relative to determining qualifications of applicants to vote. Public Affairs committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: This bill simply seeks to correct a reference in the election law that was repealed in 1990. RSA 654:12 was repealed yet the existing language says that the supervisor of the checklist shall determine the qualifications of voters as provided in 654:12. This is a technical amendment. It is consistent with what we did last year. We urge the Senate's support of the committee's report of ought to pass.

Adopted.

Ordered To Third Reading.

**HB 561**, an act enabling towns to limit reconsideration of town meeting votes. Public Affairs committee. Ought To Pass. Senator Podles for the committee.

Senator Bass moved to have HB 561, Laid On The Table.

Adopted.

HB 561, IS LAID ON THE TABLE.

**HB 743-FN**, an act relative to listing representatives to the general court on the ballot. Public Affairs committee. Ought To Pass. Senator Podles for the committee.

Senator Bass moved to have HB 743-FN, Laid On The Table.

HB 743-FN, IS LAID ON THE TABLE.

### TAKEN OFF THE TABLE

Senator Hollingworth moved to have HB 203, Taken Off The Table.

**HB 203-FN**, an act relative to the confidentiality of quality assurance records of community mental health centers. Public Institutions, Health & Human Services committee. Ought To Pass.

Senator Colantuono offered a floor amendment.

Senator Colantuono deferred to Senator Hollingworth.

SENATOR HOLLINGWORTH: I would like to ask ought to pass with amendment on HB 203. This amendment, we think, improves what was already a good bill. If you will look to the amendment, you will notice on the second page there is just the removal of repetitive malicious action. And in place of that you will see unethical behavior or personal injuries brought against a physician. This bill, we worked together — Senator Colantuono, myself and the people who brought this bill from the mental health programs. This amendment is in agreement with them. We also are amending the section of the law that has the medical hospitals as well. The idea of this is to allow



those mental health and hospitals to have quality assurance records and to keep them confidential unless there is a case of unethical behavior or personal injury, and at that time, those records would be open for public scrutiny and for use in the court system. We think this is a good bill and we ask you ought to pass as amended.

### Floor Amendment to HB 203-FN

Amend RSA 135-C:63-a, II as inserted by section 1 of the bill by replacing it with the following:

II. Except as provided under RSA 135-C:5, II, records of a community mental health program's quality assurance program, including those of its functional components and committees as defined by the organization's quality assurance plans, organized to evaluate matters relating to the care and treatment of patients and to improve the quality of care provided and testimony by members on the board of directors of the community mental health program, medical and clinical staff, employees, or other committee attendees relating to activities of the quality assurance program shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding. However, in the case of a legal action brought by a community mental health program, its quality assurance program, or its board of directors, to revoke or restrict a staff member's license, certification, or community mental health program privileges, or in a proceeding alleging unethical behavior or personal injury brought against a staff member, a program's records shall be discoverable.

Amend the bill by replacing section 2 with the following:

2 Unethical Behavior Added. Amend RSA 151:13-a, II to read as follows:

II. Records of a hospital committee organized to evaluate matters relating to the care and treatment of patients or to reduce morbidity and mortality and testimony by hospital trustees, medical staff, employees, or other committee attendees relating to activities of the quality assurance committee shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial or administrative proceeding, except that in the case of a legal action brought by a quality assurance committee to revoke or restrict a physician's license or hospital staff privileges, or in a proceeding alleging [repetitive malicious action and] **unethical behavior or** personal injury brought against a physician, a committee's records shall be discoverable.

3 Effective Date. This act shall take effect 60 days after its passage.

Floor Amendment Adopted.

Ordered To Third Reading.

### MOTION OF RECONSIDERATION

Senator McLane moved RECONSIDERATION on HB 221, relative to respite care for alzheimer's disease.

SENATOR MCLANE: I move that we reconsider HB 221. If you will remember, this is the bill that in the calendar was listed as ought to pass. And then we were told it was inexpedient. I do believe that there was some confusion about this bill and many of us who care deeply about the Alzheimer's program were confused about which way to vote. I remember particularly Senator Oleson, who has a deep and long lasting interest in the Alzheimer's program as headed by Ellen Sheridan, and he was confused. And finally, he said vote for one of them and not the other. I do wish to reconsider this bill. If you remember, it was about the statutory cap that is in the law now that says that only \$900 can be spent on respite care. This is respite care for Alzheimer's patients. The testimony at the origins of the respite care bill were that for the amount of money, and I believe it is about \$120,000 in the budget, that what we were saving is many, many people going into nursing homes at great cost to the state because many families are able to care for their Alzheimer's patients except for certain exceptions — if the caretaker is ill, if the caretaker just needs a weekend off, if the caretaker has some sort of family function like a graduation that they couldn't go to. So there has been a program contracted out in eleven districts in this state to provide a small amount of money for respite care, for those people who qualify under the program. Unfortunately, it was written into law that it had to be \$900 and there is a great variety in these cases. Sometimes, you have someone who has a job and they can't get someone else to take care, who is going to need more than the \$900. Other times, you have people who only want to use the program once or twice. The program is important and it is functioning well. And the wish of Ellen Sheridan, who is the coordinator of the Alzheimer's services, was that the statutory cap of \$900 be taken out of the statutes and that that be set by rulemaking. It is not going to mean more money into this program, unfortunately, but it is a way. What happens now is you have someone with a particular need, they spend up to the \$900 and then they have no help at all from the state for the rest of the year for the six months more that they really need it. Basically, it is a program that saves money. It is only \$10,000 for



each of these eleven units. And because it is a small amount of money and they are cognizant of the need, I wish that you would vote ought to pass on HB 221.

SENATOR BASS: Senator McLane, did you vote for the committee recommendation of inexpedient to legislate?

SENATOR MCLANE: No, I certainly didn't. I was not there for the hearing. Ellen Sheridan is one of my dearest friends and I was very instrumental in getting that program originally in. If I had ever read her testimony, I would have objected on the floor. But if you remember, it did say ought to pass and everyone assumed that it was all right and did nothing. I did vote inexpedient on the advise of Senator Oleson because I hadn't heard the testimony.

SENATOR BASS: If the motion for reconsideration is successful, is it your intention to debate this matter right now?

SENATOR MCLANE: Yes. I am moving to reconsider. And I have given my speech.

Question on the motion of reconsideration.

Adopted.

Senator McLane moved to have HB 221, Laid On The Table.

Adopted.

HB 221, IS LAID ON THE TABLE.

### HOUSE MESSAGE

#### HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

**SB 228-FN-A**, relative to the treatment of New Hampshire investment trusts and the open bank assistance program under the New Hampshire business profits tax.

Senator Fraser moved concurrence.

Adopted.

#### HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate.

**SB 15**, relative to special identification of legislation that may have an impact on local expenditures or requires the state to forward all or part of any designated revenues to cities or towns and relative to mileage payments to members of the legislative ethics committee.

Senator McLane moved concurrence.

Adopted.

### **HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

**SB 100-FN**, relative to simulcast wagering.

Senator McLane moved nonconcurrence and requested a committee of conference.

Adopted.

Appointees: Senators Blaisdell, Colantuono, and Delahunty.

### **Enrolled Bill Amendment to HB 397-FN**

7 Amend the bill by renumbering the second section 2 to read as 3 and the original sections 3 and 4 to read as 4 and 5, respectively.

**SENATOR HUMPHREY:** This amendment corrects a numbering error in the bill.

Adopted.

### **Enrolled Bill Amendment to HB 433**

Amend RSA 186-C:2, I-a as inserted by section 1 of the bill by replacing line 5 with the following:

child must first be determined to have an educationally disabling

**SENATOR HUMPHREY:** This amendments corrects terminology in the bill.

Adopted.

### **Enrolled Bill Amendment to HB 565-FN**

Amend section 2 of the bill by replacing it with the following:

2 New Paragraphs; Definitions Added. Amend RSA 146-A:2 by inserting after paragraph I the following new paragraphs:

I-a. "Discharge" or "spillage" means the release or addition of any oil to land, groundwater or surface water;



I-b. "Federal On-Scene Coordinator" means the federal official predesignated by the U.S. Environmental Protection Agency or the U.S. Coast Guard to coordinate and direct federal responses under subpart D, or the official designated by the lead agency to coordinate and direct removal under subpart E, of the National Contingency Plan;

I-c. "Groundwater" means subsurface water that occurs beneath the water table in soils and geologic formations;

I-d. "National Contingency Plan" means the National Contingency Plan prepared and published under section 311(d) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990, Pub. L No. 101-380, 104 Stat. 484 (1990));

Amend the bill by deleting section 4 and renumbering the original sections 5-47 to read as 4-46, respectively.

Amend section 43 of the bill by replacing lines 1 and 2 with the following:

43 Strict Liability. Amend RSA 146-C:11, I to read as follows:

SENATOR HUMPHREY: This amendment corrects technical errors in RSA as inserted by the bill.

Adopted.

### **HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

**SB 143**, extending time limits for condominium projects.

Senator Bass moved concurrence.

Adopted.

### **MOTION TO VACATE**

Senator Nelson moved to Vacate HB 622, relative to a debt management plan. From Capital Budget to the Finance committee.

Adopted.

### **TAKEN OFF THE TABLE**

Senator Colantuono moved to have HB 484-FN Taken Off The Table, an act relative to when electric companies are public utilities and affiliates of public utilities.

**HB 484-FN**, an act relative to when electric companies are public utilities and affiliates of public utilities. Executive Departments committee. Ought To Pass.

**SENATOR COLANTUONO**: This bill was placed upon the table last week, when Senator Nelson had some questions that needed to be answered. We received the answer from the counsel to the Public Utility Commission. It is satisfactory to the Senators and we would now move Ought to Pass.

Adopted.

Ordered To Third Reading.

## ANNOUNCEMENTS

### RESOLUTION

Senator Delahunty moved that the Senate now recess from the early session, that the business of the late session be in order at the present time, and that when we recess, we recess until Tuesday, April 30, 1991 at 1:00 p.m.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage.

**HB 52**, an act relative to group health insurance participation by members of the general court.

**HB 118**, an act relative to determination of alimony where one spouse has remarried.

**HB 127**, an act establishing Civil Rights Day and abolishing Fast Day.

**HB 131-FN**, an act relative to liability for acts which create situations requiring unnecessary emergency responses.

**HB 203-FN**, an act relative to the confidentiality of quality assurance records of community mental health centers.

**HB 208-FN**, an act relative to annulments of criminal records.

**HB 224-FN**, an act relative to new motor vehicle arbitration.

**HB 278-FN**, an act relative to liability and indemnification of regional planning commissions.

**HB 398**, an act relative to determining qualifications of applicants to vote.



**HB 413-FN**, an act relative to penalties for insurance laws violations.

**HB 445-FN**, an act defining "compact parts" of towns and cities with regard to criminal charges for unauthorized use of firearms and firecrackers.

**HB 461-FN**, an act relative to notice for out of district placement by the court.

**HB 475-FN**, an act relative to appointment of banking department assistants, and to the performance of contract services by the banking department, and to assessing the costs of bank examinations.

**HB 484-FN**, an act relative to when electric companies are public utilities and affiliates of public utilities.

**HB 573**, an act relative to unauthorized insurance.

**HB 574-FN**, an act relative to managing general agents.

**HB 575**, an act relative to liquidation and rehabilitation of insurance companies.

**HB 580**, an act relative to insurance rebates and automobile financing.

**HB 589-FN**, an act relative to holding companies.

**HB 638-FN**, an act relative to credit for reinsurance.

**HB 692-FN**, an act relative to reinsurance intermediaries.

**CACR 11**, relating to jury trials. Providing that a 12-person jury is required in capital cases and when imprisonment may be more than one year, but that other juries shall consist of 6 persons.

**CACR 11**, necessary 3/5 vote required for 3rd reading and final passage.

Division vote unanimous.

Senator Delahunty moved that we recess.

Adopted.

Recess.

Out of Recess.

## **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

**SB 40**, making the pink lady's slipper the state wildflower.

**SB 52**, changing the name of the Federal Home Loan Bank Board to the Office of Thrift Supervision.

**HB 114**, relative to the date for terminating the motor vehicle emissions inspection program.

**HB 120**, to standardize the use of tax exemptions and tax credits for property tax purposes.

**HB 170**, to provide immunity to the board of examiners of psychologists, its agents, investigators, and employees against civil actions resulting from disciplinary investigations and proceedings.

**HB 174**, relative to the appointment of a deputy town clerk by the elected town clerk.

**HB 180**, to establish a study committee to evaluate whether a consortium of all law libraries within the state of New Hampshire is economically feasible and practical.

**HB 255**, establishing the New Hampshire foundation for mental health and the mental health foundation fund.

**HB 256**, limiting liability of any person, firm or corporation which donates equipment or services to any postsecondary technical training program.

**HB 259**, permitting a municipal governing body to assign street numbers.

**HB 292**, relative to the real estate tax lien process.

**HB 313**, relative to conversion between mutual savings banks, cooperative banks, building and loan associations, guaranty savings banks, savings and loan associations, and commercial banks and trust companies.

**HB 364-FN**, relative to the opening and closing of deer season.

**HB 368**, naming the Parker L. Hancock building of the New Hampshire state prison.

**HB 396**, relative to filing reports in court proceedings involving children.

**HB 402**, relative to placing lime and wood ash on farmland.

**HB 407**, relative to failure to report injuries resulting from criminal acts.

**HB 454**, relative to safe deposit boxes.



**HB 465**, relative to a veterans' cemetery at the Pease Air Force facilities under the Pease development authority.

**HB 492**, relative to conservation restriction assessments.

**HB 496**, relative to administrative fines for marine pollution.

**HB 629-FN**, establishing a task force on congregate housing.

**HB 672**, relative to standards for fire safety for community living facilities.

**HB 752**, prohibiting merchants from requiring the recording of a credit card number or expiration date as a condition for check cashing or acceptance.

**HJR 3**, requesting the university cooperative extension service to continue to work with the governor's commission on the 21st century.

Senator Currier moved adoption.

Adopted.

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, April 30, 1991.

Adopted.

### LATE SESSION

Adjournment.

*April 30, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, what has become of the word "honest"? It is alleged that many in government charge taxpayers for their personal gains! Here in New Hampshire it is alleged — we have not even received half of our projected income to prepare a budget!! Who is going to pay? Bless us Lord.* Amen.

Senator Hough led the Pledge of Allegiance.

**INTRODUCTION OF GUESTS****MOTION TO RECOMMIT**

SENATOR HOUGH: This is relative to the new Manchester District Court facility and making an appropriation therefor. Thursday, in Capital Budget executive session, there was some information that was brought to our attention that more correctly belongs in the Capital Budget Committee and we would like to have this bill back, so that we could bring it back to you in a more correct form. It has to do with the leasing of a facility in Manchester for the district court and there are some concerns relative to the improvements and betterments to the facility which we want to make sure are done properly.

Senator Hough moved to withdraw the reference to Finance of HB 328-A, relative to the site location, design and planning of a new Manchester district court facility and making an appropriation therefor, and moved to Recommit the bill to Capital Budget.

HB 328-A, IS RECOMMITTED.

**COMMITTEE REPORTS**

Recess.

Out of recess.

Senator Currier in the Chair.

**RULE 44**

PRESIDENT DUPONT: I am going to take the liberty, as I have done in the past couple of sessions, to just take a couple of minutes to talk about the budget. I know we all tend to be bogged down in the issue of what we are going to do with the state's budget problems. This morning, I think something significant happened in Senate Ways and Means. I know the members of Ways and Means partook in a session that talked about not only my restructuring of the business profits tax, as I hoped but a number of different proposals including one by Senator Wayne King and one by the BIA. And earlier this morning, I spoke to the Republican leadership that met in my office about where I think we are headed with the budget. And I thought I would just outline for you some of my thoughts about where we ought to be going and I think perhaps try to focus the discussion and also maybe get us headed down a path where we ultimately can all look forward to going home at some point in time this summer. The first issue I think we ought to start thinking about is, we need to address the budget in a manner that first, as every-



body agrees, looks at state government and the spending of state government and that we reduce expenditures any way that we can. I think we have all made that commitment that we are going to have a rational look at how state government operates. And also do it in a manner that recognizes that we have certain commitments that we need to make to the people of the state and that we are not going to cut this budget to the point where it can not serve the people of the state of New Hampshire. The second issue, I think, as part of what we ought to be planning to do is address the revenue side. But I say that because there are all sorts of proposals out there and I think we recognize the fact that major tax reform, whether it be an income tax or significant BPT will do nothing more than further weaken our already weakened economy. And that we have to recognize that the best way to fix this budget is to have a healthy economy. We ought to be doing things that will ultimately bring our economy back to the position it was in a couple of years ago. As I mentioned, there are a number of things that we can do, but I think as we talk about the BPT, in particular, that we ought not to look to it to balance this budget. Because I sincerely think that by doing so, we'll further weaken our economy, but we ought to be looking at building into the BPT some incentives for job credits, capital investment, research and development. That should all be done in a fashion that ultimately will allow our economy the opportunity to recover. The message, I guess, is we all recognize we are going to come out of this economy. I sincerely believe that as we go to put this budget together that ultimately we are going to arrive at a level of expenditure that is not going to be equal to what our revenues are going to be and I think the revenue numbers that are going to come out at the end of April are going to further indicate that our economy is sliding. What I would like to have the Senate consider and think about, and it is the reason I bring it here today, is that we ought to recognize the fact that no matter what actions we take in this budget that we ultimately aren't going to have a balanced budget. Expenditures are going to be greater than our revenues and I suggested to our leadership this morning that we ought to consider bonding the difference. I know that is a radical provision that some may not agree that it makes sense to bond the difference, but what I am going to suggest to Senate Finance, and Ways and Means is that we ought to put in place a structure that allows us to go out and borrow the difference, predicate it on the fact that we are going to have an economic recovery and predicate it on the fact that when our economy turns around that the first monies that would be repaid are those that we borrowed to get us through the next couple of years. I say that because I am firmly convinced that as a legislature we can cut enough and we can raise taxes enough to balance this budget,

but by doing so will drive us further into recession and that doesn't make any sense. If we all believe in the inherent strength of the New Hampshire economy, then we know it is going to come back at some point in time. But if we look at the structural problems that exist right now, the banking problems, the lack of capital, the problems in the housing market, it is going to take some time. And unlike past recessions, this one is going to last longer than what we have experienced in the past. So we need some breathing room and what I guess I would basically say is I think we can put into place a plan that would satisfy some of the concerns of the bonding agencies, if we recognize the fact that what we are going to do is provide New Hampshire with an opportunity to let our economy recover, provide some incentives to help that recovery along and finally that we recognize that this is debt that ought to be prioritized and is going to be paid off as soon as our revenues start going in a positive direction again. I say this today, because I think we all need to start doing some thinking about it. We are at the point where the budget dilemma is on our shoulders in the Senate. I met with the Governor and the Speaker this morning to talk about general budget issues. I think we are all of the belief that we ought to be able to put a proposal into place that will ultimately try to resolve our problems. But I think as revenues further decline, the ability to do that within the existing structure that we have is further hampered and makes the situation much more difficult. I would just add that I would have been the first, four months ago, to say the last thing I want to see the state do is borrow money to pay current expenses, but given the choices that we have, we ultimately may be in a situation where, if we try to take the action necessary to balance this budget, we ultimately drive our economy further in the opposite direction. So that is the end of the budget pitch for the day. Hopefully, at some point in time, we will all be able to walk out of here with a solution, but I just would like the full Senate to recognize the severity of what we face for a problem and again ask for the full Senate to work with Senate Finance and work with the leadership, Democratic and Republican, to try and put together a solution to the problems that face us. That is the bad news. The good news is the Dupont family is going to be expecting a new addition in November. I think we were responsible for the last Senate baby four years ago. I don't think there has been one by a Senate member in the interim and what I suggested to my wife at that point in time, was that we not let that happen during session, so we did our planning this time to allow it to be an out of session time. So with that we will proceed with our calendar for the day.



**SPECIAL ORDER**

**HB 350-FN**, an act relative to assault. Judiciary committee.

Minority Report Ought To Pass With Amendment. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill came about from Rep. Leo Pepino of Manchester, who had a constituent who had a situation of a highway death due, I believe, to a drunk driver in which a pregnant mother and the unborn baby were killed. It came about when that event happened, they discovered under the present criminal laws of the state of New Hampshire, while the defendant could be prosecuted for negligent homicide of the pregnant mother, there is no prosecution for the death of the unborn child. In fact, there were two other very similar cases within the recent past of drunk driving, negligent homicide cases that involved pregnant mothers and unborn children. His original bill deleted the present language that we have had since 1971 which says that the word another for the purposes of the murder statutes and homicide statutes in the state of New Hampshire does not include a fetus. His original said that for the purpose of the negligent homicide statute only the word another does include fetus. The purpose of it was to let these parents know, who have suffered such losses, that the state recognizes that each case involved the loss of two lives and not just one. And these unborn children were children that they planned for, they had the baby showers for and been decorating the nursery for and buying baby furniture for and when the deaths occurred, they lost two valuable members of their family, not just one. And Rep. Pepino wanted the legislature to set policy for New Hampshire so that we would also recognize that there were two deaths instead of just one. If you sat through the committee hearing, one of those fathers came and testified and it was very heart wrenching testimony. In fact, just last week we had victims rights week in which that father also came up here to lend his support to that effort. I personally didn't think the bill went far enough because I thought you should make the change across the board in the entire murder statute because a person who commits premeditated murder of a pregnant mother and the unborn child is much more culpable and should be subject to penalties in a much more severe way than a person who is involved in drunk driving. Two recent situations in New England set that out and the reason for that. You have the Charles Stuart murder in Boston, and you had the alleged Johnson murder in Bedford where that exact thing happened. I would like to briefly talk about the legal history of how we got to the position of where we are. Under the common law, homicide is the killing of one human being by another. The question

being, when is a person a human being for the purpose of protection under the criminal law. The common law since the fourteenth century has had a rule that you have to be born alive before a prosecution can occur for injuries suffered by the unborn child in the womb. In other words, if there is an attack on the mother and the child dies in the womb, under the common law that is not considered a homicide. But if a child is born alive and then dies, it is considered a homicide and the perpetrator can be prosecuted. That was the rule, from my research, which prevailed in New Hampshire up until 1971 when the legislature promulgated the new criminal code. And when the legislature did that, a section was inserted in the homicide statutes, which is still the law today, which says that as used in this section the meaning of another does not include a fetus. We did some research into the legislative history to try to determine why that was put in there, what were they getting at. We couldn't find anything in the testimony of any Representative or Senator on the floor or in committee which shed light on that. The only light that was shed on that were the reporters notes to the model code that simply said paragraph 3, which is that paragraph, is designed to keep murder, manslaughter and negligent homicide distinct from abortion. In other words, they were only concerned about the interplay between abortion sections, which were in the model law but weren't passed by the legislature, and the rest of the homicide statutes. It is apparent that the question of the intentional murder of a mother and an unborn child was simply not thought of. And that is the problem here. We have a law on the books which prevents prosecutions but we don't know why it is put in there. Furthermore, it really was a step backwards in 1971 because it abrogated the born alive rule. So that now in New Hampshire, even if a unborn baby receives injuries within the womb and is born alive and then dies, whereas before 1971 the perpetrator could be prosecuted, now they can't. We have a situation now where it is an anomaly that if a person comes up to a pregnant woman and shoots her in the stomach and kills the child and the mother that is only one murder under our law but if he walks up to a mother who has just delivered and is holding a baby in front of her stomach and shoots the baby and the mother it is two murders. And that doesn't make any sense. Now when the House got the bill, the House Judiciary committee amended the bill to state that if a person commits an assault on a pregnant woman, and this is the bill that is in front of the body today subject to the majority report, and causes a miscarriage or a stillbirth, then that is a separate felony. And that is a step in the right direction as far as it goes. However, there is a fundamental flaw in that bill. I am trying to explain the difference and the reason for the amendment. The flaw in the House version that the minority amendment seeks to correct is that it



doesn't apply in a case where the mother and child die together like the Stuart case or the Johnson case. It would have no application in that type of case. Rep. Pepino came to the hearing and requested that the Judiciary committee in the Senate re-amend his bill back along the lines of his original legislation, and that is the amendment that has been put forward by the minority which is on page 6 of the calendar. The minority amendment simply states that as used in the homicide statutes the meaning of another does include a viable fetus but does not include a non-viable fetus. The reason we put in language about viability is to avoid any questions or disputes about the early stages of pregnancy. We now know, through medical science and so forth, that there is a stage at which unborn children can exist outside the womb and they are already given legal protection in many other states and under our civil laws as well. As I mentioned, there are 19 other states that have similar types of fetal protection including California, Illinois, and even Massachusetts has this type of protection. That is why Charles Stuart, if he hadn't committed suicide, would have been subject to two homicide prosecutions and not just one. As I said, by passing the minority amendment, we would bring criminal law in New Hampshire up-to-date, bring it in line with our civil law, which already allows parents to sue for the death of an unborn child, and it will bring it in line with modern developments in the field of medicine where we now have ultrasound technology, we have a kind of photography like you saw in Life magazine last August. We have all the advances in neonatology and were fetology is one of the fastest growing fields of medicine where doctors are now doing amazing things, fixing problems of unborn children in the womb. So basically, this boils down to a law and order issue. It is a question of the proper definition of crime and punishment here in New Hampshire. This bill and the amendment have nothing to do at all with the question of abortion. Unfortunately, that was brought into it in the House committee. If anything, this amendment is a pro choice bill, because it protects the rights of mothers and fathers who have chosen to have these babies and carry them to term and some criminal has come along and taken that right away. So the minority would strongly urge that the members vote for the amendment which is printed on page 6 of the calendar to plug a loophole in existing criminal law and fix the problem that was created back in 1971.

Recess.

Out of Recess.

Senator Currier in the Chair.

SENATOR HOLLINGWORTH: The majority of Senate Judiciary would like you to vote ought to pass on this legislation and vote down

the amendment. This bill was amended by House Judiciary and they have done an excellent job on this piece of legislation. It was clear in the House hearing that the point behind this bill and the bottom line was to allow for punishment where there was no punishment prior. The amended bill allows for that punishment with the same length of time, but with the safeguard of allowing the crime to be against the mother. We have a choice here today, and that is to address all our statutes that deal with personhood and abortion or to keep our statutes the way they are and pass this amended version by the House, which allows for the same length of time that under Tom's amendment would be granted. So if the real reason is to have punishment, this bill will do it. It will allow 3 to 7 years for negligence and 7 to 15 for purposeful. Senator Colantuono said that such as the Pam Smart case and other cases where an individual was killed. Now that is clearly no charges have been brought against those fetus and those people who were killed because once the individual is done and the person committing the crime is charged with first degree murder and the fellow is punished with life, there is really nothing more that we are going to do. Just as we saw happen in the Pamela Smart case. They could have brought another charge against her but they dropped all of them because she was going to get life imprisonment. There is no point in costing the state any more money or anybody else any money. So in the case of a mother being killed, there would still be an opportunity to take and charge the individual with homicide or murder and in that case, there would be life imprisonment. If the mother survived, the mother and father could bring the charges against the individual causing the crime. I applaud the House for their wonderful work. I think it is true that the people who sponsored this legislation are trying to do the right thing for the citizens of the state and the parents who have that terrible grief of losing a family member and losing a child. This is the way they go. This is the way the legislation will pass both this body and the House. But if they propose to amend it as Senator Colantuono will, this will certainly not be able to hold up constitutionally and I would ask you to support the majority report of the Senate Judiciary ought to pass.

SENATOR PODLES: I rise in favor of the amendment, in favor of the minority report. The original bill, 350, was negated in the House and as written now and sent to the Senate does nothing for the unborn child. The original bill allows a person to be charged under the homicide laws when the victim is an unborn child. The chief of police support the bill with the amendment and as stated before there are 19 states that have passed the bill. The law should allow persons the right to legal action in compensation for a tragic, personal loss



where a human life has been lost. And this, I feel, should be recognized. The vote in the House was 218 to 203 in favor of the bill and I urge passage of the amendment.

Question on the adoption of the minority amendment.

SENATOR CURRIER: If you are in favor of the minority report amendment, you will vote yes. If you are not in favor of it, you will vote no.

### **Amendment to HB 350-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to homicide.

Amend the bill by replacing all after the enacting clause with the following:

1 Homicide Definitions. Amend RSA 630:1, IV to read as follows:

IV. As used in this section and RSA 630:1-a, 1-b, 2, 3 and 4, the meaning of "another" does [not] include a **viable** foetus **but does not include a nonviable foetus**.

2 Effective Date. This act shall take effect January 1, 1992.

### **AMENDED ANALYSIS**

This bill allows a person to be charged under the homicide laws when the victim was a viable foetus.

A Roll Call was requested by Senator Roberge.

Seconded by Senator Podles.

The following Senators voted yes: Heath, Dupont, Roberge, Nelson, Colantuono, Podles, Humphrey, J. King, St. Jean, Delahunty.

The following voted no: Oleson, W. King, Fraser, Hough, Disnard, Blaisdell, Bass, Pressly, McLane, Russman, Shaheen, Hollingworth, Cohen..

Yeas: 10

Nays: 13

Amendment Fails.

SENATOR HUMPHREY: Just briefly, there was a very noble attempt here first on the part of Rep. Pepino and here in the Senate on the part of Senator Colantuono to recognize the rights and the right to life of unborn human beings. It was a modest attempt. It was phrased in a way that all of us on that side of the issue found tasteful

and made it a distinction between viable and non-viable fetuses in terms of their rights. Nonetheless, it represented a modest effort to acknowledge the rights and to enshrine the rights of the unborn in law. And clearly, the opponents recognized that and just as clearly that is why they opposed it. They don't want to even begin to think about acknowledging or giving in statute any kind of rights to unborn human beings, viable or non-viable. So it is the old contest once again. And it is going to come back again, and again, and again, of course. I would just like to point out that our friends on the other side that while they have precedent on their side, precedent isn't holy. Precedent doesn't make things right in every case. Precedent is important and I have respect for precedent as an important institution. But we need not be slaves to precedent, if we were we would still have slaves in this country. We would still have slavery if we were slaves to precedent. We would still have segregation under the separate but equal doctrine. The point is that our forebearers as human beings made mistakes. The point is, from time to time, in our further enlightenment, through fetology and the various advances in science which Senator Colantuono cited, we recognize those mistakes and rectify them. And some day we will. That is what this was all about today. It will be back before us again and again and again, until the inevitable happens — that the offspring of human beings are recognized as human beings for they can be no other. And they are therefore entitled to the right to life as so eloquently expressed in our organic document, the Declaration of Independence. That we are endowed by our Creator therefore at the time of creation and not at some moment convenient to modern society are we endowed with inalienable rights but at the time of creation. If you believe that, if you refer to the Declaration of Independence in your rhetoric on the Fourth of July, then act according to your beliefs. If you believe that man is endowed that human beings are endowed by their Creator not by this body and not even by the constitution but by their Creator at the time of creation and not at some moment arbitrarily picked by society, then ultimately I believe you will support our side.

Majority Report Ought To Pass. Senator Hollingworth for the committee.

SENATOR HOLLINGWORTH: I will be very brief. Again, I would like to ask this house ought to pass on this bill from the House. Again, I will state that they have done an admirable job of trying to make sure that those people who suffer a personal, terrible tragedy will have some recourse and some punishment for those people committing that tragedy. I do not believe that it is necessary for us to go any further into the debate and I would like to ask the Senate to support this.



SENATOR NELSON: I rise in support of this legislation. It is a good piece of legislation that was crafted by the criminal subcommittee of the House Judiciary, chaired by Donnalee Lozeau. As you know, it just creates a new offense for pregnant women if they have a miscarriage or still birth.

Majority Report of Ought to Pass is Adopted.

Ordered To Third Reading.

### **HOUSE ACCEDES TO SENATE REQUEST FOR A COMMITTEE OF CONFERENCE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled bill:

**SB 100-FN**, relative to simulcast wagering.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

Representatives: Robert Kelley, William Desrosiers, Peter Simon, Frank Reidy.

### **COMMITTEE REPORTS**

**HB 283-FN**, an act establishing a study committee on the problems of New Hampshire banks and financial institutions. Banks committee. Inexpedient To Legislate. Senator Fraser for the committee.

### **SUBSTITUTE MOTION**

SENATOR FRASER: It is a good thing we have a rule in the Senate that bills have to be disposed of in the same term, otherwise I don't think I would be around here long enough to see this one disposed of. There is quite a history to 283 already, in that the original sponsor, Rep. Goulet's bill was gutted by the House and the House created a study committee and the committee was adopted by the Banks committee and I brought the bill to the floor about two weeks ago. At that time, both Senator Nelson and Senator Podles had some concerns about the structure of that committee and it was agreed to recommit the bill. After having spoken to the people on the House Commerce committee, and to the banking commission, nobody had any strong feelings about it. The House committee is going to have their own group to study the financial community and with that I was prepared to bring the bill to the floor of the Senate today and request that it be adopted as inexpedient to legislate. Yesterday, Senator Hollingworth came to me with another problem. It is germane to the subject of establishing a study committee of the problems that banks and financial institutions and with that I would like to offer a substitute motion of recommit.

Senator Fraser moved to Recommit HB 283-FN to the Banks committee.

Adopted.

HB 283-FN, is RECOMMITTED to the Banks committee.

**HB 448-A**, an act appropriating funds for environmental and engineering design studies for the Ledyard Bridge in Hanover and making an appropriation therefor. Capital Budget committee. Ought To Pass. Senator Nelson for the committee.

**SENATOR NELSON:** The bill appropriates \$650,000 for environmental and engineering design studies for the Ledyard Bridge between Hanover, New Hampshire and Norwich, Vermont.

**SENATOR DISNARD:** The Ledyard bridge in Hanover is very important to Senator Hough and the people in my district. The bridge is in such disrepair that the next inspection might mean that school buses will not be able to pass it. This is one of the few school districts in the country consisting of communities in more than one state. It is very important to get them back and forth and I hope the Senate will support this.

**SENATOR MCLANE:** Senator Nelson, would you believe that I remember when that was a covered bridge?

**SENATOR NELSON:** That bridge was built in 1935. Yes, I believe it.

Adopted.

Ordered To Third Reading.

**HB 553-FN**, an act relative to the bridge over Storrs Street in the city of Concord. Capital Budget. Ought To Pass. Senator Fraser for the committee.

**SENATOR FRASER:** When this bill was heard in the Capital Budget committee, there was no opposition. Further, there was no fiscal impact on the state coffers. The bill was introduced at the request of the city of Concord to make necessary repairs to the Bridge Street bridge, which is the one over here adjacent to the Ramada Inn. What has occurred here, as I understand it, originally the funding was approved for the Washington Street bridge in Concord. And what the city is requesting is the authority to change its priority so the needed repairs to the Bridge Street bridge can be commenced. The primary repairs have to do with a new deck. The Department of Transportation appeared in favor of the bill. All it does at this juncture, if this bill is adopted by the Senate, would be to put it on the list of ten year projects for the Department of Transportation. We urge its passage.



Adopted.

Ordered To Third Reading.

Recess.

Out of recess.

Senator Dupont in the Chair.

**HB 539-FN-A**, an act relative to a committee to study the uninsurable and making an appropriation therefor. Insurance committee. Ought To Pass. Senator Delahunt for the committee.

SENATOR DELAHUNTY: This is a committee to study the uninsurables. These are people who want to purchase health insurance and are refused for various reasons. It is a continuation of the committee that has been in existence for three years. The funds, which would be assessed against the insurance companies, would not come out of the general fund for the purpose of hiring an actuary, among other things. They are trying to get a handle on the number of people who fall into this category and the feeling is it could exceed 5000 people.

SENATOR NELSON: I would rise in support of this and just bring it to your attention that last week we were sending a resolution off to Washington on national health care. But I would rise in support of this saying this is what we should be doing, working in our own back yard, helping people of New Hampshire.

SENATOR SHAHEEN: Senator Delahunt, can you comment on past study committees that have dealt with this issue? Hasn't the state just produced in the last five years, two other studies on this issue and how does this differ? And what do we expect to come out of this that hasn't come out of the other studies that have been done?

SENATOR DELAHUNTY: Yes, there are three other studies in effect.

Recess.

Out of Recess.

SENATOR DELAHUNTY: Senator Shaheen was referring to two other studies dealing with another category. I read it in the notes somewhere this morning and I can't find the bills being discussed except that there was one involving risk pools and the committee opted to continue this committee as opposed to starting a risk pool. The reason for it is, there are a number of individuals out there who are unable to obtain health insurance because of a previous medical problem or because of an occupational problem and that includes bartenders and florists and a number of others. I really can't tell you

but it is in there. The money doesn't come out of the general fund. It is something that we have to continue in our fight to find health insurance coverage for people who can't obtain it for various reasons. It is a very important bill, but I can't identify the specific differences between this and other studies going on except that the committee was well aware of the other studies and felt this was very necessary to continue.

SENATOR SHAHEEN: I would just like to go on record as saying that I would agree that this is a very important issue and I would hope that based on that, in this study we can finally come out with some recommendations and actions and actually do something about the problem instead of just studying it ad infinitum. And I would hope that as a group the Senate could help and perhaps Senator Fraser, that we could hold the feet to the fire of this study committee so we actually get some recommendations that do something about the problem when they are finished.

Adopted.

Ordered To Third Reading.

**HB 572**, an act relative to exclusions in automobile insurance. Insurance committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: This bill does for you what you already thought you had when you bought your umbrella policy. When you bought your umbrella policy, you thought you had insurance for uninsured motorists at the same time, but you really only had insurance for the limits of your liability coverage. What this bill does, in essence, when you buy your umbrella policy, it requires that you have insurance for uninsured motorists to the extent that you have liability coverage. So it gives you equal protection, either from insured or uninsured up to the limits of your policy. So I urge your support.

### **Amendment to HB 572**

Amend RSA 264:15, I as inserted by section 2 of the bill by replacing it with the following:

I. No policy shall be issued under the provisions of RSA 264:14, with respect to a vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto at least in amounts or limits prescribed for bodily injury or death for a liability policy under this chapter; for the protection of persons insured thereunder who are legally entitled to recover damages from owners or drivers of uninsured motor vehicles, and hit-and-run vehi-



cles because of bodily injury, sickness or disease, including death resulting therefrom. When an insured elects to purchase liability insurance in an amount greater than the minimum coverage required by RSA 259:61, his uninsured motorist coverage shall automatically be equal to the liability coverage elected. **For the purposes of this paragraph umbrella or excess policies that provide excess limits to policies described in RSA 259:61, shall also provide uninsured motorist coverage equal to the limits of liability purchased.**

### AMENDED ANALYSIS

This bill prohibits automobile insurers from including policy provisions which would preclude coverage for intra-family or interspousal claims.

The bill also requires that automobile insurance policies which provide excess limits also provide uninsured motorist coverage equal to the limits of liability purchased.

Amendment Adopted.

Ordered To Third Reading.

**HB 670-FN**, an act relative to condominium conversion of manufactured housing parks. Public Affairs committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: Believe it or not, this bill is supported by both the mobile home park owners as well as the tenants. As we know, there has been tension between mobile home park owners and tenants relative to condominium conversion because of the difficulties associated with tenants being able to purchase the property that exists under their mobile homes and being unable to easily move them. The bill establishes a one year moratorium and establishes a study committee that will come back to the Legislature with specific recommendations dealing with the act as well as means by which conversion programs might be modeled to ease the burden on mobile home park tenants. The committee urges your support of the committee report of ought to pass.

Adopted.

Ordered To Third Reading.

**HB 130-FN**, an act relative to mass transportation in certain cities. Transportation committee. Inexpedient To Legislate. Senator Cohen for the committee.

SENATOR COHEN: The purpose of this bill would be to repeal a provision which requires a two thirds vote rather than a simple majority vote of governing body to provide an appropriation for mass

transportation. The committee felt that keeping it at two thirds would be consistent with other appropriations and bond issues and should remain, and recommend, therefore, that this be inexpedient to legislate.

Committee Report Adopted.

**HB 137-FN**, an act relative to railroad rights-of-way. Transportation committee. Ought To Pass With Amendment. Senator Cohen for the committee.

SENATOR COHEN: Basically, what this bill does is to clear up some very old laws from the 1800s with regard to railroad rights of way. It allows the state to gain absolute ownership rights of all railroad rights to way. The amendment changes the time of notice to be in the newspaper for general circulation from five years down to two years. The committee recommends ought to pass with that amendment.

#### Amendment to HB 137-FN

Amend RSA 228:60-a, V as inserted by section 1 of the bill by replacing it with the following:

**V. All railroad rights-of-way and rail properties acquired by the commissioner or by the state are hereby declared to be owned in fee simple absolute. Any and all reversionary rights in railroad rights-of-way and rail properties which have been acquired by the state or are acquired by the commissioner by purchase, condemnation or otherwise are hereby declared extinguished as of the effective date of this section as amended, or the date of acquisition, whichever occurs later. The commissioner shall give notice to the public of all such properties declared under this paragraph to be owned in fee simple absolute by the state by publishing a description of the properties sufficient for the identification thereof, specifying the county where the properties are located. Any such notice shall be published at least once each year for 2 years in a newspaper of general circulation in the county where the property is located. Any person damaged thereby may make claim by petition against the commissioner to the appropriate superior court within [2] 5 years of the date of acquisition or declaration of fee simple absolute ownership. The petition shall then be referred to the board of tax and land appeals, which shall proceed as with a condemnation under RSA 498-A. The right to appeal contained in RSA 498-A:27 shall be available to the claimant or the commissioner.**



**AMENDED ANALYSIS**

This bill grants fee simple absolute ownership rights to the state for all railroad rights-of-way and rail properties acquired by the transportation commissioner.

The bill also requires the commissioner to give public notice, through a newspaper of general circulation at least once a year for 2 years, of the location of any rail property declared to be owned in fee simple absolute by the state.

Amendment Adopted.

Referred To Finance (Rule #24).

**HB 168**, an act relative to highway classifications. Transportation committee. Ought To Pass With Amendment. Senator Oleson for the committee.

**SENATOR OLESON:** This is more or less a local control bill. As we all know, most roads in New Hampshire are classified in different classifications and every classification might be identified with certain state and sometimes federal money. Sometimes it has happened in the past that the state money is used and they might come into certain towns and reclassify and that might throw more burden on the town than it had in the past. This bill clarifies this question so that before any classification can be changed on any road in any town, and I think it is quite essential, that the local body of government should be notified, either if it is an unincorporated township or an organized town. At the present time, I have a floor amendment that I would like to have adopted. And what the amendment says, and this is a quote that I got from the Transportation committee in the House, the House intended to adopt this and the language is wrong and this makes it clearer and less able to be misinterpreted. So, I will ask my fellow Senators to please adopt the amendment and then later on adopt the bill as amended.

**SENATOR COLANTUONO:** Senator Oleson, can you briefly explain how this bill changes current law regarding the making of classification of highways?

**SENATOR OLESON:** It doesn't really change the law. What it says is that before the state can come in — or any other body, federal or otherwise — and make changes in classification of roads in the communities and towns, they will have to be notified, the local government body.

**Amendment to HB 168**

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Upper Jaffrey Road Changed to Class II Highway. Amend RSA 230:7 by inserting after paragraph XII the following new paragraph:

XIII. The upper Jaffrey road beginning at its intersection with New Hampshire route 101 and extending southerly approximately 3 1/10 miles to the Jaffrey town line in the town of Dublin. Unimproved portions of said highway shall remain eligible for state aid allocated to class IV and V highways.

### AMENDED ANALYSIS

This bill requires that any class IV or class V highway reclassified as a class VI highway by a local governing body meet the requirements of RSA 229:5, VII.

This bill also changes a certain portion of upper Jaffrey road from a class V to a class II highway.

This bill is a request of the department of transportation.

Amendment Adopted.

Senator Oleson offered a floor amendment.

### Floor Amendment to HB 168

Amend RSA 231:45-a, II as inserted by section 1 of the bill by replacing it with the following:

**II.** No vote or other action of the governing body shall be effective to reclassify a class IV or V highway as a class VI highway **except for the failure to maintain and repair that highway in suitable condition for travel thereon for 5 or more successive years as provided by RSA 229:5, VII.**

Floor Amendment Adopted.

Ordered To Third Reading.

**HB 172-FN**, an act relative to private lease of state railroad real estate. Transportation committee. Inexpedient To Legislate. Senator Heath for the committee.

**SENATOR HEATH:** This addresses a real problem. Along the state railroad rights of way, people have built, over the years, docks that they use with adjacent property on the other side, on the land side of the lake. They have abused the use of public lands, and I guess somebody over in the railroad division thought a way to correct it was to secure contracts with them and allow them to keep it. In fact, the way to correct it is to ask them to remove it. The committee found this inexpedient because it would create a right and a property associated with these people who have abused the state already. It would



not solve the problem. If they refuse to do the contract, they would still have the access and still use it as if it was their shoreline property, and finally, it would take public access away if the contracts were, in fact, struck from the public and give it to the people who have already essentially stolen the use of it from the state. So we thought this was a problem, but we felt that it needs to be addressed by the people who are out there addressing the new docks and go back and look at the unimproved docks and get rid of them and not take it away from the public rights. So we would ask you to go with the committee report.

Committee Report Adopted.

Recess.

Out of recess.

**HB 327-FN**, relative to the disposal of state-owned real estate. Transportation committee. Ought To Pass. Senator Heath for the committee.

**SENATOR HEATH:** This is essentially just a paperwork reduction act. And I would urge its passage.

**SENATOR NELSON:** Senator Heath, I didn't quite hear what you said because your back was to me.

**SENATOR HEATH:** What I said, is this is essentially a paperwork reduction act. Apparently, there is no disagreement. It would simply expedite the negotiations that they need in purchasing property, making plots, and moving buildings.

**SENATOR NELSON:** Did anybody contact you on this or come before the committee who is on the long range capital planning committee, before all these lands go? Is that where this came from?

**SENATOR HEATH:** I am absolutely vague about this bill. I remember the hearing and I don't remember any opposition and it says it was requested by the town, I think.

**SENATOR NELSON:** This says that this section shall not apply to sale of institutional land and it is all not in here. Do you think we should look into this?

Recess.

Out of Recess.

Adopted.

Referred To Capital Budget (Rule #24).

**HB 339-FN**, an act relative to traffic signals. Transportation committee. Ought To Pass. Senator Currier for the committee.

SENATOR CURRIER: HB 339 is a bill that authorizes city council to establish traffic devices and signals on highways over which the city council has jurisdiction. The bill also requires that the erection, maintenance, and removal of all traffic devices and signals shall be in conformance with the applicable state statutes and manual of uniform traffic control devices. The bill is a request of the Department of Transportation.

Adopted.

Ordered To Third Reading.

**HB 372-FN**, an act relative to further protection of scenic roads in municipalities and the removal of trees posing a safety hazard. Transportation committee. Ought To Pass. Senator Currier for the committee.

SENATOR CURRIER: The Senate Transportation committee has had several bills dealing with scenic roads in municipalities and throughout the state. This is one of them that has seen the light of day at this point. Others have gone the way of other legislation in terms of being inexpedient. But, basically, this bill gives greater flexibility to the towns in determining elements worth protecting on the scenic roads and the rights of landowners with respect to trees and boundary markers which mark that road as scenic. It also clarifies the effect of designating the town and city highway as a scenic road.

Adopted.

Ordered To Third Reading.

**HB 373-FN**, an act relative to agricultural and farm motor vehicle license plates. Transportation committee. Ought To Pass. Senator Heath for the committee.

SENATOR HEATH: This is the manure spreader bill. It simply clarifies where there was some mix up that you may tow an implement such as a manure spreader behind a vehicle with agricultural plates and not have to have that implement registered as a trailer.

Adopted.

Ordered To Third Reading.

**HB 298-FN**, an act lowering the level from .10 to .08 for legal intoxication under the DWI laws. Transportation committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: I think you are all familiar with this piece of legislation and the committee amendment. The committee amendment moves the liability against third parties or from third parties suing the sellers and servers. It simply says that if the person who



damaged another individual tested out at more than .12 that the server or the seller would not have a liability. The feeling in the committee, at least in the majority of the committee, was that if we are going to lower the blood alcohol, in an industry that is already against the ropes with taxes that we have enacted on them and the economy in its downturn, we are going to raise the cost of their liability insurance and their risk. If they can't afford liability insurance, they have a higher risk and if they do, they have a higher rate that they have to pay. We thought the focus of drunk driving should be on the drinker/driver and not on the service seller until at least there was a margin between the two that was clearly delineated in law. And this amendment that the committee associated with this piece of legislation delineates the difference. So it is a higher standard to go after to the person who sells it than to go after the person who is inebriated. They have the ability to know where they have been before, how many drinks they had and how they feel and so on. And the server has a much more difficult time determining a level of inebriation and they are not the ones who go out and turn the engine on and drive down the road and hurt someone. It seemed to me, in offering the amendment to the committee, and I gather in accepting it to the majority of the committee that it is one thing to lower the standard, it is another thing to punish an industry that is already taking giant steps forward in terms of how it observes drunks and the things that it does in its own work to prevent drunk driving and accidents resulting from that. I would urge the Senate to adopt the committee report. It seems to me incredible that the Manchester Union Leader can in one editorial that it borrowed from the Concord Monitor say that the amendment has no effect, that language is already there and obviously if it had no effect, who would object. And it did bring the hospitality business along who had said they weren't worried about sales, they were worried about liability. They were put to the test with this amendment and they passed the test. That wasn't good enough for the Union Leader who went back and wrote its own editorials saying that it went too far. I guess the cautionary word to them is they ought to write their own editorials to begin with or stick to their tune. But in either case, I think it is a good amendment. I think it makes the bill tolerable. I would ask in the name of an industry that is very hard pressed because of the economy and because we keep increasing the taxes on it, the rooms and meals tax, and because of the increased liability to a party that is not responsible for drunken driving that we would pass this with the committee report.

SENATOR CURRIER: I rise in opposition to Senator Heath's and the committee's amendment to this bill. I was the sole dissenting

committee member opposing the Heath amendment and it was for this reason. I believe that the amendment does, in fact, go too far. That there are provisions under current state statutes that address the liability of servers of alcoholic beverages. And, in fact, this particular legislation, should an underage drinker get drunk in an establishment, unbeknownst to the establishment, or because the individual had been not carded or identified as an underaged, that the responsibility and the liability for that act would be waived because of this amendment. I think it is about time that we put our efforts into legislation instead of the rhetoric that goes on about drunk driving. I think we need to act very favorably with this particular bill and actually adopt .08 as the standard for New Hampshire. Last session of the legislature, I led the charge, so to speak, to table this particular legislation because I didn't have enough information relative to its merits. However, over the last year, I have contacted my colleagues in Vermont and Maine. Maine has a program that has been very successful. And I have come to the conclusion that .08 does make sense to New Hampshire even in these hard economic times. And I would urge the defeat of the committee report.

SENATOR HEATH: Senator Currier, are you aware of what the blood alcohol level is on the average arrest?

SENATOR CURRIER: On the average arrest, I don't know.

SENATOR HEATH: Would you believe that it is 1.15?

SENATOR CURRIER: Yes, I would believe that.

SENATOR HEATH: Would the amendment that the committee has adopted and I proposed, would that, on the average, come into play? Would that get the server or seller off the hook for third party claim?

SENATOR CURRIER: No it would not, as I understand your amendment. However, the problem that I have with your amendment is it doesn't deal with the individual who is, in fact, underage and is drinking in an establishment.

SENATOR HEATH: But that is already a law that the industry is liable for?

SENATOR CURRIER: But my understanding is that your amendment would exempt them from that liability.

SENATOR HEATH: But your understanding is incorrect, would you believe?

SENATOR CURRIER: No, I don't believe that, Senator, not for a minute.



SENATOR OLESON: I rise in support of the Heath amendment. When we first had the hearing, it seemed as if the hospitality people were quite disturbed over the fact that the service people might be held responsible under certain conditions. And I understand the Heath amendment has taken care of that. In fact, I received calls from the so-called hospitality people saying that they are highly in favor of the so-called Heath amendment. And I would like to just make the remark that nobody benefits more from the hospitality group than many in the district which I happen to represent. As far as the other bill is concerned, it is quite difficult in my mind to put ten percent or eight percent or two percent and you can't do things unless you are eighteen years old. It is pretty hard to differentiate. I think this body as a whole is trying to the best of their ability to pass legislation to get these so-called DWIs off the road. There is no question in my mind that everyone here is pointing in that direction. At the same time, we do have differences of opinion. But I think this is a good bill. I would like to see it passed. I would like to see the amendment pass and the bill pass as amended.

SENATOR COLANTUONO: I rise in opposition to Senator Heath's amendment. I think this amendment is a very bad idea, would send the wrong message to the public and to the hospitality industry. It weakens the bill tremendously. Basically, what this amendment does is tell the hospitality industry that even though we pass a law you wanted several years ago regarding server liability, which makes their job a lot easier in avoiding unwanted liability and sets out some really good workable standards, it is throwing all of that into the ash heap and saying you can give a person as much alcohol as you want as long as you keep him under .12 and you can send them out in their cars, out on the road in a deadly weapon in an inebriated state and you are totally relieved of all liability. In my opinion, this is a huge step backwards. I think it is also discriminatory. It is special interest legislation just for restaurants, cocktail lounges, state liquor stores and retail outlets. We are not doing anything to the private parties and they are creating just as much of a problem. But we are giving this special exemption only to the people who pay their lobbyists to come up here and put this kind of legislation in the laws. I think it would weaken the intent of this bill, which is to have safer highways and get the drunk drivers off the road, to allow the people who make huge profits selling alcohol to people to allow them to give as much alcohol as they want up to .12. It would have been one thing if we had left it at .10 and saying for the driver you are going to be guilty of DWI at .08 but we will leave .10 for the liquor liability in the restaurants. But we are going up to .12. We are going totally in the opposite direction and if you do the math, we are telling the restau-

rants that they can get a person 50 percent drunker — .08 to .12 is fifty percent drunker — then the state as a whole is going to allow people to drive on their roads at. I am rising as a co-sponsor of the legislation and I have some serious questions about whether the legislation should even be passed with this amendment.

SENATOR HEATH: Senator Colantuono, I noticed a couple of statements that you made, one the huge profits that the industry makes selling alcohol but what about the huge profits that the trial lawyers are making suing those establishments? Has that got anything to do with your stance?

SENATOR COLANTUONO: Would you believe that in 15 years of practice, I have never had a case suing anybody for drunk driving.

SENATOR HEATH: I wasn't asking you personally, I wondered about that industry that you belong to.

SENATOR COLANTUONO: I really don't know. I practice by myself. I am not sure about that.

SENATOR HEATH: The other thing is you characterized that these hospitality people can now get people fifty percent drunker, who gets the person drunk? The person who does the drinking or the person who they purchase the drink from?

SENATOR COLANTUONO: I think they are equally culpable.

SENATOR HUMPHREY: Senator Colantuono, this amendment applies to RSA 420:II. And in looking at that RSA, I don't see any reference in, to hold harmless in existing law pegged at any alcohol level. Is there something elsewhere in statute or is this hold harmless with respect to servers, something completely new?

SENATOR COLANTUONO: That is 507:F. That is the liquor liability statute.

SENATOR HUMPHREY: So there is a hold harmless presently on statute?

SENATOR COLANTUONO: It is not a hold harmless. Basically, it sets out standards before you can sue a liquor establishment for liability.

SENATOR HUMPHREY: What is the legal term for such a provision?

SENATOR COLANTUONO: I am not sure.

SENATOR HUMPHREY: Anyway, it is in law. And at what alcohol concentration is it?



SENATOR COLANTUONO: There is none right now. The rule of reasonableness is the case.

SENATOR PRESSLY: As one of the sponsors of this legislation and a member of the committee, I rise in support of the Heath amendment. I think the amendment addresses one aspect of the effect of this that has bothered a lot of us and that is the fact that someone could be very innocently doing their job of serving a meal and beverages and find themselves in a situation of not knowing how much this person has had to drink. Many of us felt that this was unfair for the servers. The vast majority of the committee felt that this was a very appropriate and reasonable way to solve a major problem and do it in such a way so that innocent workers are not penalized for it. I urge support of the Heath amendment.

### Amendment to HB 298-FN

Amend the bill by replacing sections 1 and 2 with the following:

1 Intoxication. Amend RSA 214:20, II to read as follows:

II. Upon complaint, information, indictment or trial of any person charged with a violation of this section, the court may admit evidence of the defendant's alcohol concentration, as defined in RSA 259:3-b, as shown by a chemical analysis of his breath, urine, or blood. Evidence that there was, at the time alleged, an alcohol concentration of 0.05 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of from 0.05 to [0.10] **0.08** is relevant evidence but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. Evidence that there was, at the time alleged, an alcohol concentration of [0.10] **0.08** or more is prima facie evidence that the defendant was under the influence of intoxicating liquor. **Evidence that there was, at the time alleged, an alcohol concentration of up to 0.12 shall relieve any restaurant, cocktail lounge, state liquor store, or retail outlet in the state as defined under RSA 175:1, or any employee, agent, or designee of any restaurant, cocktail lounge, state liquor store, or retail outlet in the state of any liability arising out of any harm caused by a defendant whose blood alcohol concentration is shown through evidence to have been between 0.08 and 0.12 at the time alleged. Evidence that there was, at the time alleged, an alcohol concentration of 0.13 or more shall not establish culpability or liability on the part of any restaurant, cocktail lounge, state liquor store, or retail outlet as defined under RSA 175:1, except as prescribed under existing state laws, if any, or as**

adjudicated through any court proceeding. **The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.**

2 Evidence; OHRVs. Amend RSA 215-A:11-c to read as follows:

215-A:11-c Evidence. Upon complaint, information, indictment or trial of any person charged with a violation of the provisions of RSA 215-A relative to the operation of off highway recreational vehicles by a person under the influence of intoxicating liquor or a controlled drug, the court may admit evidence of the defendant's alcohol concentration at the time alleged, as shown by a chemical, infrared molecular absorption or gas chromatograph test or tests of his breath, urine, or blood. Evidence that there was, at the time alleged, an alcohol concentration of [0.10] **0.08** or more is prima facie evidence that the defendant was under the influence of intoxicating liquor. Evidence that there was, at the time alleged, an alcohol concentration of more than 0.05 and less than [0.10] **0.08** is relevant evidence and may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of 0.05 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor. **Evidence that there was, at the time alleged, an alcohol concentration of up to 0.12 shall relieve any restaurant, cocktail lounge, state liquor store, or retail outlet in the state as defined under RSA 175:1, or any employee, agent, or designee of any restaurant, cocktail lounge, state liquor store, or retail outlet in the state of any liability arising out of any harm caused by a defendant whose blood alcohol concentration is shown through evidence to have been between 0.08 and 0.12 at the time alleged. Evidence that there was, at the time alleged, an alcohol concentration of 0.13 or more shall not establish culpability or liability on the part of any restaurant, cocktail lounge, state liquor store, or retail outlet as defined under RSA 175:1, except as prescribed under existing state laws, if any, or as adjudicated through any court proceeding.**

Amend the bill by replacing section 7 with the following:

7 Evidence; Serious Traffic Offenses. Amend RSA 265:89 to read as follows:

265:89 Evidence. Upon complaint, information, indictment or trial of any person charged with the violation of RSA 265:82 or 265:82-a, the court may admit evidence of the defendant's alcohol concentration, as shown by a test of his breath, blood, or urine as provided in RSA 265:84. Evidence that there was, at the time alleged, an alcohol



concentration of 0.05 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor. Evidence that there was, at the time alleged, an alcohol concentration of more than 0.05 and less than [0.10] **0.08** is relevant evidence but is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor; but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. Evidence that there was, at the time alleged, an alcohol concentration of [0.10] **0.08** or more is prima facie evidence that the defendant was under the influence of intoxicating liquor. In addition, evidence that there was, at the time alleged, an alcohol concentration of [0.10] **0.08** or more shall, in conjunction with the evidence otherwise required by RSA 265:82, I(b) of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265:82, I(b); and evidence that there was, at the time alleged, an alcohol concentration of [0.10] **0.08** or more shall, in conjunction with the evidence otherwise required by RSA 265:82-a, II of driving or attempting to drive a vehicle upon a way and of one or more of the circumstances specified in RSA 265:82-a, II (a), (b) and (c), constitute a separate offense under RSA 265:82-a, II; and evidence that there was, at the time alleged, an alcohol concentration of 0.20 or more shall, in conjunction with the evidence otherwise required by RSA 265:82-a, III of driving or attempting to drive a vehicle upon a way, constitute a separate offense under RSA 265:82-a, III. **Evidence that there was, at the time alleged, an alcohol concentration of up to 0.12 shall relieve any** restaurant, cocktail lounge, state liquor store, or retail outlet in the state as defined under RSA 175:1, or any employee, agent, or designee of any restaurant, cocktail lounge, state liquor store, or retail outlet in the state of any liability arising out of any harm caused by a defendant whose blood alcohol concentration is shown through evidence to have been between 0.08 and 0.12 at the time alleged. Evidence that there was, at the time alleged, an alcohol concentration of 0.13 or more shall not establish culpability or liability on the part of any restaurant, cocktail lounge, state liquor store, or retail outlet as defined under RSA 175:1, except as prescribed under existing state laws, if any, or as adjudicated through any court proceeding.

Amend the bill by replacing section 10 with the following:

10 Evidence; Boating Implied Consent. Amend RSA 270:51 to read as follows:

270:51 Evidence. Upon complaint, information, indictment or trial of any person charged with a violation of the provisions of RSA 631:5 relative to the operation of boats by a person under the influence of intoxicating liquor or a controlled drug, the court may admit evidence of the defendant's alcohol concentration at the time alleged, as

shown by a chemical, infrared molecular absorption or gas chromatograph test or tests of his breath, urine, or blood. Evidence that there was, at the time alleged, an alcohol concentration of [0.10] 0.08 or more, is prima facie evidence that the defendant was under the influence of intoxicating liquor. Evidence that the defendant had at the time alleged, an alcohol concentration of more than 0.05 and less than [0.10] 0.08 is relevant evidence and may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor. Evidence that the defendant had, at the time alleged, an alcohol concentration of 0.05 or less is prima facie evidence that the defendant was not under the influence of intoxicating liquor. **Evidence that there was, at the time alleged, an alcohol concentration of up to 0.12 shall relieve any restaurant, cocktail lounge, state liquor store, or retail outlet in the state as defined under RSA 175:1, or any employee, agent, or designee of any restaurant, cocktail lounge, state liquor store, or retail outlet in the state of any liability arising out of any harm caused by a defendant whose blood alcohol concentration is shown through evidence to have been between 0.08 and 0.12 at the time alleged. Evidence that there was, at the time alleged, an alcohol concentration of 0.13 or more shall not establish culpability or liability on the part of any restaurant, cocktail lounge, state liquor store, or retail outlet as defined under RSA 175:1, except as prescribed under existing state laws, if any, or as adjudicated through any court proceeding.**

### AMENDED ANALYSIS

This bill lowers the alcohol concentration legal intoxication level from .10 to .08 in laws relating to DWI for motor vehicles, boats and OHRVs and in the law relating to hunting while intoxicated.

The bill also relieves sellers of alcoholic beverages of liability for harm arising out of the conduct of any person whose blood alcohol concentration is shown through evidence to be between 0.08 and 0.12.

A Roll Call was requested by Senator Heath.

Seconded by Senator Roberge.

The following Senators voted yes: Oleson, W. King, Heath, Roberge, Pressly, Cohen.

The following voted no: Fraser, Hough, Currier, Disnard, Blaisdell, Bass, Nelson, Colantuono, McLane, Podles, Humphrey, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth.

Yeas: 6

Nays: 17



Amendment Fails.

Senator W. King moved to have HB 298-FN, Laid On The Table.

A Roll Call was requested by Senator Roberge.

Seconded by Senator Heath.

The following Senators voted yes: Oleson, W. King, Heath, Fraser, Hough, Disnard, Blaisdell, Bass, Nelson, J. King, Russman, St. Jean, Shaheen, Delahunty, Hollingworth, Cohen.

The following voted no: Currier, Roberge, Pressly, Colantuono, McLane, Podles, Humphrey.

Yeas: 16

Nays: 7

HB 298-FN, is LAID ON THE TABLE.

Recess.

Out of recess.

Senator Delahunty in the Chair.

**HB 620-FN**, an act relative to the transportation of alcohol in open containers. Transportation committee. Ought To Pass. Senator Pressly for the committee.

SENATOR PRESSLY: It is my pleasure to recommend ought to pass on HB 620. It is the unanimous position of the Transportation committee. As many of you know, this bill has been discussed in the local papers and I am sure many of you have pretty much made up your mind how you will be voting on this. I think this is the year for something like this to be passed and I hope that you will vote yes. There have been some questions that have come up, some people have expressed some concerns that I would like to put to rest. Some people were concerned that this would apply to boats. The answer to that is it does not. It applies only to automobiles. As you know, this is the bill that will prevent alcoholic beverages to be open in a moving vehicle on our highways. There are some exceptions which are if you hire a limousine, or a particular bus driver and the purpose of the party is to get from one place to another. As you know, we have had some very serious accidents and many deaths. The death rate on our highways are increasing. The only way to get drunk drivers off the highway is to pass legislation like this. Drinking alcoholic beverages and driving are not compatible activities. What this means, my friends, and rightly so, if you are going to go someplace, you are going to have to do your drinking either before you get in the automobile or when you arrive at your destination. I don't think that is asking too much in order to get drunk drivers off the highway and protect the citizens of the state of New Hampshire.

SENATOR DISNARD: I like a cigar; I don't know where I can smoke it anymore. I like my pipe and I really enjoy a pipe, I don't know where I can smoke it anymore. I like to go to a ball game down in Boston, with four or five people. Now I can't. If this is passed, I won't be able to sit in the back seat and have a beer on the way down and enjoy that. I don't know if I can afford a bus. I can't afford a limousine. I can't afford a taxi to take me so I can have a drink. But I want to ask you Senators, the definition of a way includes public and private roads and public and private parking lots. This bill would prohibit tailgating at UNH and Dartmouth. I won't be able to do that anymore and neither will you be allowed to do it. I don't have an RV so I don't go camping. This would mean that you couldn't have an alcoholic beverage in your RV. Is this the type of legislation we want to continue in this state?

SENATOR PRESSLY: Senator Disnard, when you tailgate, do you sit in your car or do you sit outside your car and use the back of it?

SENATOR DISNARD: I am reading the bill and the bill says in a public parking area and the law says the definition of a way in New Hampshire law includes public and private roads and public and private parking lots. It is a state definition.

SENATOR PRESSLY: My question is, when you tailgate, do you sit in your car or do you sit in a chair on the side of the car?

SENATOR DISNARD: No ma'am. I don't sit in a chair and drink a beer. When I have a tailgate party, I stand up and enjoy.

SENATOR PRESSLY: Senator Disnard, is it quite a sacrifice to you, and people who feel as you do, to not be able to drink beer while you serve in the Senate?

SENATOR DISNARD: Say that again? I want to be sure I understood that.

SENATOR PRESSLY: Do you feel that you should be able to drink beer while you sit here in the Senate?

SENATOR DISNARD: Root beer. I enjoy my root beer in the Senate.

Senator Russman moved to have HB 620 Laid On The Table.

SENATOR HUMPHREY: What I was going to say was that if there was a technical problem with the bill, it seemed to me to have been more responsible to refer the bill back to committee. I don't understand all the details. But I want to make the plea that before it happens again, somebody should tell us what the hell is going on. If it is a problem of just correcting a tailgating provision or making some small committee, then we send it back to committee.



Recess.

Out of Recess.

SENATOR HUMPHREY: I move that the Senate adjourn until 1:00 p.m. on Thursday, at which time the public can let their views be known on this matter. And give the public an opportunity to speak to Senate in the intervening time.

SENATOR DUPONT: I guess I am a little bit concerned in that as I understand the motion of Senator Humphrey is to give the public more of an opportunity to discuss these two pieces of legislation as the purpose for which he wants us to adjourn. I would only add that I believe both of these bills, and given what my mailbox has looked like for the past month, have had sufficient public notification, two hearings have been held. I know that the issue is adjournment but the Senate has other bills on the calendar for today that need to be dealt with and that we ought not to adjourn at this particular point in time because we aren't particularly happy with the way the vote went on at least one piece of legislation. So I would just ask the Senate to let us finish our calendar. As I understand it, both bills will be on the table. The public has the opportunity to engage any member of this Senate in dialogue about them coming off the table. And that is the most appropriate course of action to take at the present time.

SENATOR DELAHUNTY: The pending motion is to the lay the bill on the table which is setting it aside. I think the proper procedure would be to try and bring it off the table, if that is what you wish, Senator.

SENATOR HUMPHREY: Let me just speak to the motion before the body. If there is some legitimate concern about a technical point, such that the bill could be redrafted without substantially affecting its effect, then why don't we rerefer it to committee? The difficulty with tabling is that, as Senators know, it takes two thirds to get the thing off the table once it goes on the table. A majority? I am mistaken.

SENATOR RUSSMAN: I understood that the motion to table on the floor, that it is non-debatable and is not to be discussed.

SENATOR DELAHUNTY: The adjournment motion is higher and is debatable.

SENATOR BASS: I rise in opposition to adjourn. I am actually in favor of HB 620 and I will vote for a motion to table if one is made subsequent to, if this motion to adjourn is defeated. I think there are legitimate questions that have been raised by other members of this

body. And I also would like to associate my remarks with Senator Dupont's in that there are other bills before the Senate today that deserve to be considered and passed on. We have other business to do. The fact is that a motion to table, the bill may be removed from the table by a simple majority at a future date. That, in fact, achieves exactly what the Senator wishes to do, for further discussion and consideration.

SENATOR HUMPHREY: I get the impression, in sort of private asides here, that there is an effort to kill this bill and that is why it is being tabled. I don't know what is really going on here. Why would anyone want to kill this bill? Is that the case, in the Senator's opinion?

SENATOR BASS: It is not the case in this Senator's opinion.

SENATOR HUMPHREY: Then wouldn't it make more sense and give a better appearance if we referred it back to committee? Tabling has the connotation, so often, of killing something without directly doing so.

SENATOR BASS: I would remind you, Senator Humphrey, that there were a number of bills that were placed upon the table during the session that have been subsequently removed and acted upon. So the tabling motion, the record doesn't indicate that it has been a means of killing a bill universally.

SENATOR HUMPHREY: The Senator supports the bill, am I correct in that?

SENATOR BASS: That is affirmative. I have until I heard this debate.

SENATOR HUMPHREY: And the Senator's desire in voting to table is to give us an opportunity to perfect the bill?

SENATOR BASS: I will vote against the motion to adjourn, and I will vote for a motion to table. If my concerns, which I believe are the same as Senator Disnard's, are adequately answered, I will vote to take the bill off the table.

SENATOR HUMPHREY: If I may then, sensing a losing cause, I withdraw the motion.

Senator Russman moved to have HB 620-FN, Laid On The Table.

A Roll Call was requested by Senator Roberge.

Seconded by Senator Currier.

The following Senators voted yes: Oleson, W. King, Fraser, Dupont, Disnard, Blaisdell, Bass, J. King, Russman, St. Jean, Delahunty, Hollingworth.



The following Senators voted no: Heath, Hough, Currier, Roberge, Pressly, Nelson, Colantuono, McLane, Podles, Humphrey, Shaheen, Cohen.

Yeas: 12

Nays: 12

Motion to be Laid On The Table Fails.

### MOTION TO RECOMMIT

Senator W. King moved to Recommit HB 620-FN back to the Transportation committee.

Adopted.

HB 620-FN, is RECOMMITTED to the Transportation committee.

**HB 627-FN**, an act relative to the treatment of repeat DWI offenders.

Transportation committee. Ought To Pass With Amendment. Senator Cohen for the committee.

SENATOR COHEN: This bill relative to the treatment of repeat DWI offenders addresses the problem of second offenders plea bargaining down to first offense. If a person has a second offense, even though it is plea bargained down to a first offense, clearly that person has a problem. This bill will require that that person, on his second first offense, if you will, must go to a seven day program, at no cost to the state, I might add. But this guarantees that this person shall have successfully completed a minimum seven day impaired driver intervention program. The amendment was agreed to by all parties, people who had been in favor of and opposed to the original bill. It is agreeable to all parties and the committee does recommend ought to pass with amendment.

### Amendment to HB 627-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Impaired Driver Intervention Programs. Amend RSA 172-B:2-a, I and II to read as follows:

172-B:2-a Impaired Driver Intervention Programs.

I. [The] **Except as provided in paragraph II, the director shall be responsible[, except as provided in paragraph II,] for approving the impaired driver intervention programs and 7-day residential intervention programs equivalent to the multiple DWI offender intervention detention center program (M.O.P.)** which persons convicted under RSA 265:82 or 82-a shall attend in order to regain their driver's licenses or driving privileges; but the director shall not

approve any impaired driver intervention program unless such program is conducted without cost to the state. Notwithstanding RSA 6:12, any fees collected under subparagraph III(c) of this section shall be placed in a nonlapsing revolving account and shall be used by the director for the purposes of this chapter only.

II. The director jointly with the commissioner of safety shall adopt rules, pursuant to RSA 541-A, relative to **the impaired driver intervention programs and those programs equivalent to the M.O.P. as required in RSA 265:82-b, VI(b)** with respect to:

(a) Procedures and forms to be followed in order for drivers who have completed such programs to regain their licenses or driving privileges.

(b) Place of business.

(c) Records and reports.

(d) Schedule of fees and charges.

(e) Such other matters as the director and the commissioner of safety may prescribe for the protection of the public.

2 Pre-Payment to Impaired Driver Intervention Program. Amend RSA 172-B:2-b, II to read as follows:

II. **[The] Any person who attends the multiple DWI offender intervention detention center program shall be required to pay the fees for confinement and intervention costs prior to and as a prerequisite to admission into the program, except that prior payment shall not be required of any person convicted on a second or subsequent offense pursuant to RSA 265:82-b, I(b)(1) or RSA 265:82-b, V. The fees collected shall be deposited in a special account in the office of the state treasurer and utilized as provided in RSA 172-B:2-c.**

3 Impaired Driver Intervention Program. Amend RSA 263:65-a, I and II to read as follows:

263:65-a Attendance at Impaired Driver Intervention Program Required.

I. The director shall not restore the license or driving privilege of any person whose license or privilege has been revoked or suspended pursuant to RSA 265:82 or 265:82-a until such person has furnished proof of successful completion of an impaired driver education program which is:

(a) Approved by the director of the office of alcohol and drug abuse prevention and the commissioner pursuant to RSA 172-B:2-a **and RSA 172-B:2-b**; or

(b) Approved by the court, in the case of a person who is not a resident of this state.

II. For the purposes of this section, "successful completion" means meeting further counseling requirements, if any, arising out of the final evaluation given to the offender at the [impaired driver



intervention program] **I.D.I.P. or the M.O.P. or its equivalent.** In no event shall such additional counseling requirements extend in duration beyond 6 months from the date of such final evaluation **or for the period of the license, driving privilege revocation or suspension period, whichever is later,** without first giving the offender the right to a hearing before the commissioner to determine whether he is eligible for license restoration.

**III. Successful completion shall also include payment of all assessed I.D.I.P., M.O.P., and equivalent program fees. Failure of the offender to make full payment of the assessed fee may also result in petition for contempt of court charges against the offender.**

4 New Paragraph; Mandatory Treatment; License Restoration. Amend RSA 265:82-b by inserting after paragraph V the following new paragraph:

VI. Immediately following a person's conviction for any offense under RSA 265:82, the director of motor vehicles shall examine the person's motor vehicle record.

(a) If the person has had a prior driving while intoxicated conviction under RSA 265:82 or RSA 265:82-a within the preceding 7 years, the person's license or privilege to drive shall not be restored until the offender has successfully completed a 7-day program at the state operated multiple DWI offender intervention program or an equivalent 7-day residential intervention program approved by the director of the office of alcohol and drug abuse prevention at the person's own expense.

(b) The director of the office of alcohol and drug abuse prevention shall adopt rules, under RSA 541-A, pursuant to approval of equivalent 7-day residential intervention programs.

5 Elimination of State Operated Program if Not Self-Supporting. If the operation of the state-operated multiple DWI offender intervention detention center program fails to be self-supporting within the requirements of RSA 172-B:2-b, III(b) within one year of the effective date of this act, the state operated program shall commence procedures for its closing no later than 2 years following the effective date of this act. If the director of the office of alcohol and drug abuse prevention determines that the state-operated program is to be discontinued under this section, the director shall notify in writing the governor, the speaker of the house, and the president of the senate, no later than 30 days after such determination. The closing of the state operated program shall in no way impact upon, restrict, or eliminate the provision of the multiple DWI offender intervention detention center program's services by private providers.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill makes certain technical revisions to the laws relative to the impaired driver intervention program and the multiple DWI offender intervention detention center program.

The bill requires pre-payment by any person who attends the multiple DWI offender program of fees for confinement and intervention costs. Second or subsequent offenders shall be exempt from this pre-payment requirement.

The bill also provides that if the state-operated multiple DWI offender program fails to be self-supporting as required under current law within one year of the effective date of this bill, the state-operated program shall commence procedures for its closing within 2 years of the effective date of this bill.

Amendment Adopted.

Ordered To Third Reading.

**HB 683-FN-A**, an act establishing a transportation task force for the twenty-first century and making an appropriation therefor. Transportation committee. Ought To Pass With Amendment. Senator Currier for the committee.

**SENATOR CURRIER:** The amendment is on page 10 of today's calendar. The amendment deals specifically with adding one representative of the New Hampshire bus industry appointed by the Governor to the task force, which would be charged with the study and recommend legislative action regarding New Hampshire's future transportation needs. The committee as established would report back to the Governor, the President of the Senate and the Speaker of the House.

**SENATOR HUMPHREY:** Senator Blaisdell, since we are apparently signing a check and sending it to the Finance committee for the committee to fill it out, how much is going to be spent on this?

**SENATOR CURRIER:** It appropriates \$1.00.

**SENATOR BLAISDELL:** Do you want me to waive the Finance committee?

**SENATOR HUMPHREY:** Can you tell me what is going to happen to this in the Finance Committee? How much is going to be spent on this study?

**SENATOR BLAISDELL:** I wish I knew, Senator. I really don't know. Why don't we just waive Senate Finance and pass it with the dollar in it and pass the bill?



SENATOR HUMPHREY: I didn't understand the Senator's reply. Am I correct that this bill is going to be referred to the Finance committee to fill in the amount?

SENATOR BLAISDELL: Well, no. I have said to the Senate Clerk that we did not want the bill to come to Senate Finance. I would waive it. And I think that is what will happen.

SENATOR HUMPHREY: Is that going to be policy then? It is not going to be more than a dollar?

SENATOR BLAISDELL: Right, not more than a dollar. Is that all-right if we spend that much?

SENATOR HUMPHREY: That much we can afford.

### **Amendment to HB 683-FN-A**

Amend section 2 of the bill by inserting after paragraph XIV the following new paragraph:

XV. One person representing the New Hampshire bus industry, appointed by the governor.

Amendment Adopted.

Ordered To Third Reading.

**HB 722-FN**, an act relative to the control and regulation of billboards and other advertising devices and establishing an outdoor advertising study committee. Transportation committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: We have arrived at a compromise between the most ardent supporters of two pieces of sign legislation. And with the amendment the total number of permits to be issued on signs, shall never exceed those that are legally in effect as of July 1st of this year. Also the permit fee is raised. No new advertising devices shall be permitted more than 40 feet above the grade level of the road, which will address the height of signs, effective in 2003, all advertising devices shall be subject to removal, provided that just compensation is paid. That is acknowledgment of the fifth amendment of the U.S. Constitution. It establishes an outdoor study committee and it includes the Senate position which has passed twice in terms of exchange on cropping vegetation under signs under an exchange of planting vegetation elsewhere. I would urge the Senate's support.

SENATOR MCLANE: I am sorry that a promise to former Senator Charles Bond and Mr. Boulet that I wouldn't beat them up on the floor of the Senate was construed to mean that I supported their

amendment, because I do not. But I will merely say that the House has twice killed the concept of cutting trees in front of billboards. They will not accept it. This compromise is not a compromise in that it still includes that language. And for that reason, I do not support the amendment, nor do the committee chairman in the House who both have approached me this afternoon to assure me of their disregard for this amendment. I am sorry that Mr. Boulet interpreted that as meaning that just because I wasn't going to make a long speech that I did support it, because I don't.

### Amendment to HB 722-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to advertising devices and establishing an outdoor advertising study committee.

Amend the bill by replacing all after the enacting clause with the following:

1 Billboard Regulation; Purpose Added. Amend RSA 236:69 to read as follows:

236:69 Policy. It is hereby declared to be the policy of this state and in the public interest to provide for maximum visibility along the interstate system, federal aid primary system, and turnpike system, and connecting roads or highways; to prevent unreasonable distraction of operators of motor vehicles; to prevent confusion with regard to traffic lights, signs or signals or other interference with the effectiveness of traffic regulations; to promote maximum safety, comfort and well-being of users of the interstate system, federal aid primary system, and turnpike system; to preserve and enhance the natural scenic beauty or the aesthetic features of the interstate system, federal aid primary system, turnpike system and adjacent areas; to promote the reasonable, orderly and effective display of advertising devices along such systems; [and] to regulate advertising devices along such systems in a manner consistent with customary use in this state[.]; **to prevent the proliferation of billboards and other advertising devices, to the detriment of the New Hampshire landscape.** To implement this declared policy and cooperate with the United States government in the construction and maintenance of public highways in accordance with Title 23 United States Code as amended and supplemented, this subdivision provides for the regulation of advertising devices on the interstate and federal aid primary highway systems.

2 Definition Added; Vacated Permits. Amend RSA 236:70 by inserting after paragraph XIX the following new paragraph:



XX. The words "vacated permits" shall mean permits voluntarily relinquished by the permittee. Removal of an advertising device by the permittee shall not constitute a vacated permit and the permittee shall retain such permit to relocate the advertising device.

3 Advertising Devices; Applications for Permit Renewal. Amend RSA 236:72 to read as follows:

236:72 Permits. No advertising device other than such a device described in RSA 236:73, III, IV and V shall be erected or maintained in a federal highway or turnpike adjacent area without a permit issued by the commissioner of transportation. **The total number of permits to be issued in any given year shall be fixed and shall never exceed those legally in effect on July 1, 1991. Applications for permit renewals shall be honored if all conditions of the initial permit are being met. The commissioner shall establish through rules, adopted pursuant to RSA 541-A, an equitable system assuring equal access by all interested parties to vacated permits.** Application for a permit or renewal of a permit shall contain the name and residence or principal business address of the applicant, the location of the device to be permitted and its size, excluding border and trim, base or apron, supports and other structural members, the number of faces carrying advertising, a signed statement of the owner of the property upon which the device to be permitted is or will be located that he has consented to such device, the amount of rental compensation being paid to the said owner, and such other reasonable information or requirements as the commissioner may require. However, on an application for renewal of a permit the commissioner may waive the requirement for furnishing a signed consent statement from the owner of the property on which the device is located. Permits shall expire on April 1 following the date of issue and fees shall not be prorated. Applications for renewal of a permit shall be filed prior to March 15 preceding expiration of the permit. Only one permit shall be required for double face or v-type devices, but fees shall be charged with respect to each face used for advertising. Advertising copy may be changed at any time without requiring a new permit. Applications for a permit or renewal of a permit shall be granted except as provided in RSA 236:78, and each application shall be accompanied by fees in accordance with the following schedule:

I. For sign faces of 50 square feet or less, \$50.

II. For sign faces of more than 50 square feet but less than 350 square feet, [\$75] **\$100.**

III. For sign faces of 350 square feet or more, [\$100] **\$125.**

All fees collected hereunder shall be deposited in the highway fund.

4 New Subparagraphs; Advertising Device Height; Limitation. Amend RSA 236:74, II by inserting after subparagraph (c) the following new subparagraphs:

(d) No new advertising device permitted under RSA 236:72, except as provided in subparagraph (e), shall have its upper edge more than 40 feet above the grade of the road from which the device is intended to be seen. Such grade shall be measured from the center line of said road.

(e) No new roof-mounted advertising device permitted under RSA 236:72 shall have its upper edge more than 40 feet above the lowest point on such roof.

5 New Paragraph; Just Compensation. Amend RSA 236:80 by inserting after paragraph I the following new paragraph:

I-a. Effective July 1, 2003, all advertising devices shall be subject to removal provided that just compensation is paid to the owner of the advertising device and to the owner of the land upon which it is located, provided no compensation shall be paid to the owner of any advertising device or to the owner of the land upon which it is located if the reason for removal was failure to obtain a license or permit pursuant to RSA 236:71 and RSA 236:72. Just compensation paid in 2003 shall be 1991 fair market value adjusted for inflation.

6 New Paragraph; Removing Vegetation. Amend RSA 236:74 by inserting after paragraph IV the following new paragraph:

V. Removal of Vegetation. With respect to advertising devices located in federal highway or turnpike adjacent areas, owners of advertising devices may remove vegetative growth from the adjacent land owned or leased to the sign owner and from the public right-of-way, to allow a 5-second unobstructed view of the advertising device to persons driving vehicles at the posted speed limit, provided that the owner of the advertising device is issued a vegetation removal permit.

7 New Section; Vegetation Removal Permit. Amend RSA 236 by inserting after section 72-a the following new section:

236:72-b Vegetation Removal Permit. No vegetative growth obstructing the view of an advertising device shall be removed in a federal highway or turnpike adjacent areas without a permit issued by the commissioner of transportation. Application for a permit or renewal of a permit shall contain the name and residence or principal business address of the applicant, the location of the device, its size, excluding border and trim, base or apron, supports and other structural members, the number of faces carrying advertising, the size of the area and type of vegetation to be removed, a signed statement of the owner of the property upon which the removal is to be permitted that he has consented to such removal, and such other reasonable information or requirements as the commissioner may require. The



department shall supervise the removal of vegetation. No permit shall be issued unless the applicant agrees to purchase, landscape and plant suitable plants to replace the vegetation to be removed. The commissioner shall determine the amount and kind of suitable plants, the planting schedule and the placement of such plants. Permittees shall plant, at their expense and at locations determined by the department, 3 trees, with trunks at least 2 inches in diameter, for every one removed. No permittee shall remove a tree with a trunk exceeding 5 inches in diameter. The commissioner may permit the owner of the advertising device to relocate the device to a comparable location to prevent the removal of vegetative growth and may issue a vegetation removal permit for the new location, provided that the owner, the commissioner, and the city or town in which the device is to be located are in agreement. Permits shall expire on April 1 following the date of issue and fees shall not be prorated. Applications for renewal of a permit shall be filed prior to March 15 preceding expiration of the permit. Applications for a permit or renewal of a permit shall be granted except as provided in this section and in RSA 236:78, and each application shall be accompanied by a \$500 fee. The department shall return the application fee to the applicant if a permit is not issued.

8 Reference Changed. Amend RSA 236:78, I to read as follows:

I. A license under this subdivision may be denied or revoked, or a renewal denied, only: (a) for false or misleading information given in the application for such license or renewal or (b) for the erection or maintenance of advertising devices in violation of the provisions of this subdivision or rules [and regulations] of the commissioner of transportation adopted pursuant hereto. A permit under this subdivision may be denied or revoked, or a renewal denied only: (a) pursuant to RSA 236:77 or **RSA 236:72-b** or (b) for failure to obtain or have a license, or (c) for false or misleading information given in the application for such permit or renewal, or (d) for the erection or maintenance of the advertising device permitted or to be permitted in violation of the provisions of this subdivision or rules [and regulations] of the commissioner of transportation adopted pursuant hereto. Denial or revocation of a license or permit, or renewal thereof, unless made pursuant to RSA 236:77, may be made only after hearing before the commissioner upon 30 days' notice in writing to the licensee or permittee or applicant for such license or permit, or renewal thereof. The licensee or permittee or such applicant may within such 30 days correct such information or violation, in which case the license or permit shall not be denied or revoked or a renewal denied. If a revocation of a license or permit or a determination that there should be a denial of a license or permit, or renewal

thereof, is made after such a hearing the licensee or permittee, or applicant for such license or permit, or renewal thereof, shall have a right to a rehearing and a right of appeal as provided in RSA 541.

9 Committee Established; Duties. An outdoor advertising study committee is hereby established to investigate the most efficient and equitable means by which to establish a uniform system of commercial advertising along the state's highways.

10 Membership. The committee shall consist of the following:

I. Two members of the senate, appointed by the president of the senate.

II. Two members of the house of representatives, appointed by the speaker of the house.

III. The commissioner of the department of transportation or designee, who shall serve as chairperson.

IV. The commissioner of the department of resources and economic development or designee.

V. The director of the office of state planning or designee.

VI. A member of the New Hampshire Hospitality Association, appointed by such association.

VII. Two members of the New Hampshire Outdoor Advertising Council, appointed by such council.

VIII. A member of the New Hampshire Good Roads Association, appointed by such association.

IX. A member of the New Hampshire Sign Users Group, appointed by such group.

11 Initial Meeting. The committee shall hold its first meeting within 30 days of the effective date of this act.

12 Report. The committee shall submit a report on its findings, including recommendations for legislation, to the speaker of the house, the senate president, and the governor, on or before November 1, 1992.

13 Mileage. Legislative members shall receive compensation for mileage at the legislative rate when attending to the business of the committee.

14 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill declares that one of the purposes of billboard regulation is to prevent the proliferation of billboards and minimize their visual impact.

The bill increases the fees for advertising device permit renewal fees and limits the height of advertising devices.

This bill establishes an outdoor advertising study committee.



This bill also permits owners of advertising devices located in federal highway or turnpike adjacent areas, who have been issued a permit, to remove vegetation obstructing views of their advertising devices provided they purchase and plant suitable plants to replace removed vegetation.

Amendment Adopted.

Ordered To Third Reading.

**HB 169-FN**, an act relative to the disposition of revenues collected under the land use change tax. Ways & Means committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill was originally designed to address a situation in a town I represent, Litchfield. They were having a lot of land come out of current use and it was creating huge amounts of money which would translate into large drops in the property tax rate, and then the next year, huge rises again. It was creating a problem with the property taxpayers. This bill sets up a new land use change tax fund, in which all of that money would be put to give the town some flexibility to avoid that problem. From that fund, money can be voted to be either sent to the conservation fund or to be spent by the town meeting for needed expenditures. The amendment is on page 13. There was no opposition to the bill and was unanimously approved by the committee, and we ask ought to pass.

#### **Amendment to HB 169-FN**

Amend the bill by replacing section 1 with the following:

1 New Sections; Land Use Change Tax Fund. Amend RSA 79-A by inserting after section 25 the following new sections:

79-A:25-a Land Use Change Tax Fund.

I. Towns and cities may, pursuant to RSA 79-A:25-b, vote to account for all revenues collected pursuant to this chapter in a land use change tax fund separate from the general fund. After a vote pursuant to RSA 79-A:25-b, no land use change tax revenue collected under this chapter shall be recognized as general fund revenue for the fiscal year in which it is received. Any land use change tax revenue collected pursuant to this chapter which is to be placed in a conservation fund in accordance with RSA 79-A:25, II, shall first be accounted for as revenue to the land use change tax fund before being transferred to the conservation fund at the time of collection.

II. After any transfer to the conservation fund required under the provisions of RSA 79-A:25, II, the surplus remaining in the land use change tax fund shall not be deemed part of the general fund nor shall any surplus be expended for any purpose or transferred to any

appropriation until such time as the legislative body shall have had the opportunity at the annual meeting to appropriate a specific amount from said fund for any purpose not prohibited by the laws or by the constitution of this state. At the end of the annual meeting, any unappropriated balance of land use change tax revenue received during the prior fiscal year shall be recognized as general fund revenue for the current fiscal year.

**79-A:25-b Procedure for Adoption.**

I. Any town may adopt the provisions of RSA 79-A:25-a to account for all revenues received pursuant to this chapter in a land use change tax fund separate from the general fund in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting by the selectmen, or by petition under RSA 39:3, and shall be voted on by ballot. The question shall not be placed on the official ballot.

(b) The selectmen shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 79-A:25-a to account for revenues received from the land use change tax in a fund separate from the general fund? Any surplus remaining in the land use change tax fund shall not be part of the general fund until such time as the legislative body shall have had the opportunity at an annual meeting to vote to appropriate a specific amount from the land use change tax fund for any purpose not prohibited by the laws or by the constitution of this state. After an annual meeting any unappropriated balance of the land use change tax revenue received during the prior fiscal year shall be recognized as general fund revenue for the current fiscal year."

II. If a majority of those voting on the question vote "Yes", RSA 79-A:25-a shall apply within the town and shall become effective on the date on which the vote is taken.

III. If the question is not approved, the question may later be voted on according to the provisions of RSA 79-A:25-b, I.

IV. Any town which has adopted the provisions of RSA 79-A:25-a shall maintain a land use change tax fund until such time as the legislative body votes to rescind its action.

(a) Any town may consider rescinding its action in the manner prescribed in RSA 79-A:25-b, I(a) and (b). The wording of the question shall be: "Shall we rescind the provisions of RSA 79-A:25-a which account for revenues received from the land use change tax in



a fund separate from the general fund? Any unappropriated surplus remaining in the land use change tax fund, and any future land use change tax revenues received shall immediately be deemed general fund revenue.”

(b) If a majority of those voting on the question vote “Yes”, RSA 79-A:25-a shall no longer apply within the town as of the date on which the vote is taken.

V. The legislative body of any city may adopt the provisions of RSA 79-A:25-a in the same manner in which it adopts ordinances or by-laws, and may rescind its action in like manner.

2 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill allows a town or city to vote to account all the revenues collected under the land use change tax in a land use change tax fund. Revenue in the fund is separate from the town or city general fund, and the legislative body must vote to appropriate a specific amount of money from the land use change tax fund. The bill still permits revenues collected under the land use change tax to be placed in a conservation fund.

Amendment Adopted.

Ordered To Third Reading.

**HB 305-FN**, an act relative to the meaning of the term “charitable” for purposes of real estate tax exemptions. Ways & Means committee. Ought To Pass. Senator McLane for the committee.

SENATOR MCLANE: This bill defines what could be called a grey area in the definition of charitable. It puts into statute what has already been decided in case law, but does not change anyone’s status. It merely makes very clear that an organization or society, in order to be defined as charitable, must be non-profit and charitable. The words of the law say that a corporation, society or organization must perform some service of public good or welfare for the benefit of the general public. The fact that an organization’s activities are not conducted for profit shall not in itself be sufficient to render the organization charitable for purposes of this chapter. Nor shall the organization’s treatment under the United States Internal Revenue Code be a definitive answer to the fact of whether it is charitable or not. This does not affect colleges, educational institutions, nor religious organizations. Its main effect will be to help selectmen who now must deal really with case law when determining whether, particularly a nursing home or community housing, comes before them,

when they try to claim that they are charitable merely because they will not make profit. This makes clear that they must prove that they do not have a closed membership and that they perform some charitable function.

SENATOR NELSON: Senator McLane, on page 2 of the bill, I noticed it says by its charter and otherwise to perform some service of public good. What is "some" service mean? It is so open.

SENATOR MCLANE: I believe it is, but what it says is that they have to have as part of its charter that they perform some service of public good.

SENATOR NELSON: Could I change my charter now and add some public good to it by donating some money to some charity? Would that make me eligible for this?

SENATOR MCLANE: I don't believe that you could change it unless you changed your charter to say that the purpose of your organization was to donate money to some charity.

SENATOR NELSON: What is an example of a corporation or society that does the benefit of the public good or substantial, what would be an example of that?

SENATOR MCLANE: An example would be a housing community for low income housing that had, as its purpose, a charitable purpose, which is to provide housing for people who could not afford that housing.

SENATOR NELSON: Is this restricted to housing? It doesn't say just housing.

SENATOR MCLANE: No. It does not apply to educational or religious organizations. It puts the definition of charitable really for the purpose of real estate exemptions for those organizations which have claimed they are charitable but for which there is not an adequate definition in the law as it stands now.

SENATOR NELSON: Who requested this bill?

SENATOR MCLANE: This bill was really requested by Representative Adams from Lebanon, who had had this problem. There were examples from the town of Exeter and Hanover, principally having to do with housing for elderly that came into the community and then tried to claim a charitable deduction, even though the people were paying for this housing. What it really meant was that people who lived in private homes and were elderly would have to pay their property taxes and people moving into life care institutions would try to claim a charitable deduction. Now, this does not change their



status in anyway. They may try, as they are in Exeter, to get a charitable deduction. What it does is make it easier for the selectman to define what charitable is. And it was really at the request from the selectmen of Lebanon.

SENATOR DISNARD: If a non-profit organization should obtain a charter with the definition of public good, and then they purchase property to rent as income, would you be able to tax a property?

SENATOR MCLANE: Absolutely. And this happens now with religious organizations that own property for profit.

SENATOR HOLLINGWORTH: I just wanted to say that I know there is a serious problem in many of the communities and I sat in on the hearing. Isn't it true that the people in Exeter, there was one place where they were buying condominiums and they were getting a special break and not paying taxes, and were able to give their rights to those condominiums to someone else and yet they had the benefit of not paying any taxes to the town of Exeter?

SENATOR MCLANE: Exactly.

SENATOR SHAHEEN: I wanted to respond to Senator Nelson and let her know that in Madbury we had a situation where, exactly as Senator McLane outlined in Exeter, where a facility for the elderly was to be put into the community, was going to take a sizeable portion of land and the planning board and the zoning board both looked at the facility and under the current law, there was no way that the town could force them to provide any revenue or any other means of providing for and making up to the town what they're going to wind up costing. That is one reason that I am supportive of this. That facility didn't ultimately come into the town of Madbury, but I think it is a grey area that needs to be clarified.

SENATOR MCLANE: I am sorry to speak again, but I think it is important to clarify that this law changes nothing in that all it does is take the definition of charitable that the Supreme Court through two decisions, one of them being the St. Paul's School case, have determined and turned those decisions into law. So the status of none of these organizations will be changed by the law, but they will merely follow what the Supreme Court has said.

Adopted.

Ordered To Third Reading.

**HB 519-FN**, an act relative to municipal budget matters and the timber tax. Ways & Means committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill is a request of the Department of Revenue Administration. There are two parts to it. The first part clarifies the authority of county delegations and special town meetings to vote for expenditures from the capital reserve fund. The basic change there is that the public notice of the hearing shall include a statement distinctly stating the purpose for which such reserve is to be established. The second part of the bill deals with the timber tax and it clears up some confusing old language that was in the law. It requires an owner to furnish a bond before they cut timber in towns where they don't own land or where they cease to own land. The last part of the bill clears up some confusing language in present statutes between whether the selectmen or the assessing officials have to send in the information to the Department of Revenue Administration, and take the information from the people cutting, and it puts the burden all on the assessing officials, rather than on the selectmen.

### Amendment to HB 519-FN

Amend RSA 79:3-a, III as inserted by section 3 of the bill by replacing it with the following:

III. The [selectmen] **assessing officials** shall, within 30 days after receipt of notice of intent to cut, forward the appropriate copies to the department of revenue administration. The department of revenue administration shall then forward directly to the owner a report of cut form to be completed and filed with the appropriate assessing officials. Failure of the assessing officials to forward intent to cut forms to the department of revenue administration shall constitute a violation.

Amend RSA 79:10-a, III as inserted by section 5 of the bill by replacing it with the following:

III. Any owner who commences a cutting operation **or who continues a cutting operation** without first furnishing a bond or other securities as deemed necessary by the [selectmen or assessors] **assessing officials** shall be guilty of a misdemeanor.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 Assessing Officials. Amend RSA 79:11-a to read as follows:

79:11-a Special Assessment. Whenever it shall appear to the assessing officials that an owner has completed or terminated a cutting operation and the collection of the tax thereon may be placed in jeopardy, they may require that a report of cut be filed immediately with the [selectmen or assessors] **assessing officials** as agents for the commissioner of revenue administration for such operation and make a special assessment of the yield tax against the owner to



whom such tax should be assessed and commit a warrant to the tax collector for the same. In any case where the report of cut is not filed within 24 hours of the request for the report, the [selectmen or assessors] **assessing officials** may make a special assessment of the yield tax basing the assessment on such evidence as is available to them. The collector upon receipt of the warrant shall make demand for payment of such tax and may use any provisions of law to collect the tax committed to him in such warrant. In a case where an owner has terminated or completed an operation at least 30 days prior to April 1 of any year, he may, after filing the report [to] **of** cut as required by RSA 79:11, request that the [selectmen or assessors] **assessing officials** make a special assessment of the yield tax against the owner of the wood and timber severed on such operation. In such cases the [selectmen or assessors] **assessing officials** shall make such special assessment of the yield tax and commit a warrant to the collector for the same and the collector shall proceed in the collection of the same.

Amendment Adopted.

Ordered To Third Reading.

**HB 551**, an act relative to the distribution of taxes from towns to village districts. Ways & Means committee. Ought To Pass. Senator Russman for the committee.

SENATOR RUSSMAN: This bill was basically put in for districts such as Waterville Valley as far as trying to get the distribution and disbursements of the monies that were paid in taxes from the small districts. It really doesn't affect a lot of the other segments of the state, but it does help them get out the money that is due them in a more orderly fashion. The committee unanimously recommends that you accept ought to pass.

Adopted.

Ordered To Third Reading.

### HOUSE CONCURS WITH SENATE AMENDMENTS

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

**HB 213-FN**, relative to rates set for medicaid and the administrative procedure act.

**HB 244-FN**, establishing a committee to examine whether the state commission for human rights should be authorized to levy administrative fines and award compensatory and punitive damages.

**HB 319-FN** establishing a committee on access to health care.

**HB 335**, relative to license plates for antique motor cars.

**HB 452-FN**, relative to solicitation of prostitutes.

**HB 460-FN**, relative to the health data advisory committee.

**HB 481-FN**, relative to disposition of a deceased individual's estate.

**HB 490-FN**, relative to continuation of state health and dental insurance benefits for state employees called for active duty between August 2, 1990, and March 15, 1991.

**HB 530-FN**, relative to marital arbitration.

**HB 567**, relative to step-parent's visitation rights.

### **HOUSE NONCONCURS WITH SENATE AMENDMENT**

#### **REQUESTS COMMITTEE OF CONFERENCE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled House Bill sent down from the Senate:

**HB 428-FN**, relative to the enforcement and administration of state taxes by the department of revenue administration, and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Donna Sytek, Donald Crutchley, Avis Nichols, David LaMar

**SENATORS:** McLane, Hollingworth, Russman.

Adopted.

#### **TAKEN OFF THE TABLE**

Senator McLane moved to have **HB 221**, an act relative to respite care for Alzheimer's disease, Taken Off The Table.

Adopted.

Senator McLane moved Ought to Pass.

**SENATOR MCLANE:** The report was printed as ought to pass in the Journal, if you remember. It turned out that the committee thought it was inexpedient. There was some confusion and Senator Bass had some very legitimate questions about it. I would like to answer those questions at this time. According to testimony by Mrs. Ellen Sheridan, who is the director of the Alzheimers program,



there are about 110 families in New Hampshire that receive some sort of respite care. This is, for instances such as a couple of hours a day, for someone to go shopping or do something that they cannot do with the Alzheimers patient. It is divided among eleven contractors around the state, who contract for this service. As it is now in the statute that passed setting up this service, they are not asking for anymore money, but what they are asking for is to remove the statutory cap which is at \$900. Senator Bass was concerned that this would mean that some people would get more service and others would get none at all. But the coordinator of Alzheimers Disease division has guaranteed that that is not the case. They plan to go to rules and ask for a \$1200 cap, which isn't that much difference. But they have had instances of people in tremendous need of respite care, who would otherwise have to send the person, their loved one, into a nursing home, who needed to go over the cap. And others who only need it rarely. They felt that because they do run a good program that they should have that flexibility to go up that extra \$300 to perhaps cover someone for a whole year rather than just half the year. So they have asked for that permission rather than have it written into the statutes.

SENATOR PODLES: I also support the bill. The issue is flexibility. It is not the money. The money has already been appropriated and it is there. What it does is gives them flexibility of providing the services to where the need is. I would urge passage of the bill.

SENATOR CURRIER: Senator McLane, the fiscal impact says the money has already been appropriated. But if the amount is actually changed and the number increases, as implied in the bill, isn't there going to be additional need for additional money?

SENATOR MCLANE: No, because I think what they made very clear was that there were very few people who needed to go over the \$900 cap. In fact, just a couple of instances. But it was just so arbitrary, here they were helping this person and it was all working out and suddenly after six months they had to stop completely because the person had come up to the cap. Going another \$300 is not going to change the number of people that they help, at least according to their testimony. It is just that it is hard to be human with different circumstances, if there is an arbitrary cap at such a low level.

Motion of Ought to Pass is Adopted.

Ordered to Third Reading.

**ANNOUNCEMENTS****RESOLUTION**

Senator Disnard moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

**RESOLUTION**

Senator Disnard moved that the Senate be in recess until May 2, at 1:00 p.m. for the sole purpose of introducing legislation, referring bills to committee, scheduling hearings and enrolled bills reports.

Adopted.

Senator Currier moved that we be in recess until May 2, 1991 at 1:00 p.m.

Adopted.

**LATE SESSION****Third Reading and Final Passage**

**HB 168**, an act relative to highway classifications.

**HB 169-FN**, an act relative to the disposition of revenues collected under the land use change tax.

**HB 221**, an act relative to respite care for Alzheimer's diseases.

**HB 305-FN**, an act relative to the meaning of the term "charitable" for purposes of real estate tax exemptions.

**HB 339-FN**, an act relative to traffic signals.

**HB 350-FN**, relative to assault.

**HB 372-FN**, an act relative to further protection of scenic roads in municipalities and the removal of trees posing a safety hazard.

**HB 373-FN**, an act relative to agricultural and farm motor vehicle license plates.

**HB 448-A**, an act appropriating funds for environmental and engineering design studies for the Ledyard Bridge in Hanover and making an appropriation therefor.

**HB 519-FN**, an act relative to municipal budget matters and the timber tax.



**HB 539-FN-A**, an act relative to a committee to study the uninsurable and making an appropriation therefor.

**HB 551**, an act relative to the distribution of taxes from towns and village districts.

**HB 553-FN**, an act relative to the Bridge street bridge over Storrs Street in the city of Concord.

**HB 572**, an act relative exclusions in automobile insurance.

**HB 627-FN**, an act relative to the treatment of repeat DWI offenders.

**HB 670-FN**, an act relative to condominium conversion of manufactured housing parks.

**HB 683-FN-A**, an act establishing a transportation task force for the twenty-first century and making an appropriation therefor.

**HB 722-FN**, relative to advertising devices and establishing an outdoor advertising study committee.

Senator Currier moved that we be in recess until May 2, 1991 at 1:00 p.m.

Adopted.

Recess.

Out of Recess.

### LATE SESSION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Thursday, May 2, 1991.

Adopted.

Adjournment.

*May 2, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, the sword of Damocles is hanging over our heads. Between a temporary budget and a clean up now budget. Also alleged — some hair splitting bills which seem to be put together and passed Que Est. Maybe we ought to close down the State House for*

*the summer to save money. Bless us Lord, do not give up the ship,  
over us. Amen.*

Senator Disnard led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### HOUSE RE-REFERS TO COMMITTEE

The House of Representatives has Re-referred to Committee the following Senate Bills:

**SB 21**, establishing a commission to study and recommend the elimination of state-mandated programs.

**SB 81**, relative to damages for wrongful death.

**SB 156-FN-A**, establishing a committee to study the SAU structure within the state of New Hampshire and making an appropriation therefor.

**SB 162-A**, relative to rebuilding, modernizing, and maintaining rail properties and making an appropriation for the Conway branch line.

### HOUSE NONCONCURS

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

**SB 68-FN**, relative to the transportation of animals in open trucks.

**SB 91**, relative to the disclosure of discoverable materials in product liability actions.

**SB 112-FN**, relative to license plates for firefighters.

**SB 117-FN-A**, relative to expenditures by the public works bureau, extending certain lapse dates, making adjustments to certain bond authorizations, making certain appropriations, relative to the port authority, and making an appropriation therefor.

**SB 212-FN-A**, establishing a committee to study the method of sweepstakes revenue distribution.

### HOUSE CONCURS

The House of Representatives concurs with the Senate in the passage of the following entitled Bills and Resolution sent down from the Senate:

**SB 1**, relative to the senate committee which is to study redistricting state senate districts.



**SB 2**, relative to the senate committee which is to study redistricting congressional districts.

**SB 13**, relative to transferring funds between and among line items in the postsecondary technical education department.

**SB 24**, relative to revising the administrative procedure act.

**SB 25-FN**, relative to obtaining out-of-state driving records.

**SB 66**, relative to durable power of attorney for health care.

**SB 70-FN**, relative to superior court clerks for Hillsborough county.

**SB 82**, relative to powers of directors, officers, and trustees of health service corporations.

**SB 106-FN**, relative to anatomical gifts.

**SB 109-FN**, relative to the time for holding the 1991 Newmarket town meeting.

**SB 123-FN**, relative to the wine industry of New Hampshire.

**SB 178**, transferring certain account balances to the joint legislative account.

**SCR 1**, relative to L-Tryptophan.

### ANNOUNCEMENTS

**SENATOR DUPONT:** HB 65 had a section in it that dealt with the issue of the securities department. Senator Fraser has requested that he be allowed to hold a work session in Banks to look at the merits of that section of HB 65. So we will be setting up and announcing a date for that work session to be held. I think everyone is in agreement that we ought to take a look at the issue of securities. And rather than have Finance try and hold a hearing on that section, Senator Fraser has agreed to hold it.

### HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 195-FN** - relative to campaign expenditure limitations.

### Amendment to SB 195-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Declaration of Purpose. Amend 1989, 212:1, IV to read as follows:

IV. Unimpeded access to the ballot is crucial to the realization of the constitutional guarantee of a representative form of government. The philosophical basis for democracy is the equal opportunity to participate. Greater participation increases effective representation, preserving the political power guaranteed to the people by the constitution. Expenditure limitations will allow greater ballot access, freer competition of ideas through individual speech and interaction, and more competitive campaigns. Voluntary compliance with expenditure limitations will help provide greater ballot access, which by its nature is necessary to and a part of the election process. **In further recognition of the state's traditional role in regulating ballot access and candidate qualifications, the general court finds that these objectives can be accomplished by the voluntary procedure set forth herein.** The general court finds that these objectives can be accomplished by campaign expenditure limitations.

2 Filing Declaration of Intent with Secretary of State. Amend RSA 655:14-a to read as follows:

655:14-a Filing by Other Candidates. Every candidate for state or federal office who intends to have his name placed on the ballot for the state general election by means other than nomination by party primary shall file a declaration of intent with the [appropriate official] **secretary of state** as provided in RSA 655:17-a or RSA 655:17-b during the same time period in which party candidates file a declaration under RSA 655:14.

3 Filing Fees for all Candidates. RSA 655:19 is repealed and reenacted to read as follows:

655:19 Filing Fees.

I. At the time of filing declarations of candidacy, each candidate for the following offices shall pay to the official with whom the declarations are filed the following filing fees, and shall file with the appropriate official the requisite number of primary petitions as provided in RSA 655:20 and 655:22, unless the candidate agrees to limit his expenditures in accordance with RSA 664:5-a. At the time of filing declarations of intent, each candidate for the following offices shall pay to the secretary of state the following filing fees, and the following filing fees shall be paid in addition to the requisite number of nomination papers which must be submitted and filed. The filing fee paid under this section shall be in addition to the administrative assessment paid under RSA 655:19-c. The filing fees shall be as follows:

(a) For governor, United States senator, and representative to Congress, \$5,000.



- (b) For executive councilor, \$500.
- (c) For county officer, \$100.
- (d) For state senator, \$100.
- (e) For state representative, \$25.

II. The fees paid to a town or city clerk by candidates for state representative shall be forwarded to the treasurer of the town or city and shall be for the use of the town or city. The fees paid to the secretary of state shall be deposited by him in the general fund.

4 Reference to Filing Declaration of Intent. Amend RSA 655:19-b to read as follows:

**655:19-b Waiver of Filing Fee and Primary Petitions.**

I. A candidate for any of the offices enumerated in RSA 655:19 who, pursuant to RSA 664:5-a, voluntarily accepts the expenditure limitation set forth in RSA 664:5-b shall have the filing fee **under RSA 655:19** either waived or refunded, **and shall have the requirement for filing petitions under RSA 655:20 waived**, as provided in paragraph II.

II. If a candidate files the affidavit as specified in RSA 664:5-a at the time he files the declaration of candidacy **or declaration of intent**, the filing fee **required under RSA 655:19 and the petitions required to be filed under RSA 655:20** shall be waived. If such affidavit is filed within [10] 3 days following the filing of the declaration of candidacy, the appropriate officer shall refund the filing fee paid by the candidate as soon as practicable.

5 New Section; Administrative Assessment and Primary Petitions. Amend RSA 655 by inserting after section 19-b the following new section:

**655:19-c Administrative Assessment; Primary Petitions; Nomination Papers.**

I. Candidates for governor, United States senator, representative to Congress, executive councilor, state senator, county officer, and state representative who file declarations of candidacy shall pay the administrative assessment in paragraph I or file primary petitions as provided in paragraph III in addition to the filing fee and primary petition requirements of RSA 655:19 and 655:20. Candidates for governor, United States senator, representative to Congress, executive councilor, state senator, county officer, and state representative who file declarations of intent shall pay the administrative assessment in paragraph I in addition to the filing fee required by RSA 655:19 and shall meet the requirements of RSA 655:40-45 for nomination by nomination papers. Neither the administrative assessment which is paid nor the primary petitions which are filed under this section, nor the nomination papers which must be submitted under RSA 655:41 and filed under RSA 655:43, shall be waived or refunded for a candidate for any of the offices listed in this

section who, pursuant to RSA 664:5-a, voluntarily accepts the expenditure limitation set forth in RSA 664:5-b. At the time of filing declarations of candidacy or declarations of intent, the administrative assessment shall be as follows:

- (a) For governor and United States senator, \$100.
- (b) For representative to Congress, \$50.
- (c) For executive councilor, \$25.
- (d) For state senator, \$10.
- (e) For county officer, \$10.
- (f) For state representative, \$2.

II. The administrative assessment paid to a town or city clerk by candidates for state representative shall be forwarded to the treasurer of the town or city and shall be for the use of the town or city. The administrative assessment paid to the secretary of state shall be deposited by him into the general fund.

III. Any person otherwise qualified to run for office who chooses not to pay the administrative assessment as prescribed in paragraph I may have his name printed on the primary ballot of any party by filing with the appropriate official the requisite number of primary petitions made by members of the party, together with one written assent to candidacy. The number of primary petitions to be filed for each office shall be as follows: for governor and United States senator, 200; for representative in Congress, 100; for executive councilor and county officer, 50; for state senator, 20; for state representative, 5. Candidates for delegate to the state convention shall not be required to submit any primary petitions.

6 Filing Primary Petitions. Amend RSA 655:20, II to read as follows:

II. Any person qualified to run for office who does not, pursuant to RSA 664:5-a, voluntarily accept the expenditure limitation set forth in RSA 664:5-b shall, in order to have his name printed on the primary ballot of any party, in addition to the filing fees prescribed in RSA 655:19, file with the appropriate official the requisite number of primary petitions **required under RSA 655:22** made by members of the party, together with one written assent to candidacy. **Primary petitions filed under this section shall be filed in addition to the requirement for filing petitions under RSA 655:19-c.**

7 Filing Number of Petitions. Amend RSA 655:22 to read as follows:

655:22 Number of Petitions. The number of primary petitions to be filed for each office under RSA 655:20 shall be as follows: for governor and United States senator, 2,000; for representative in Congress, 1,000; for executive councilor, **500**; for county officer, **100**; [and] **for** state senator, [500] **100**; for state representative, [20] **10**. Candidates for delegate to the state convention shall not be required



to submit any primary petitions. **The provisions of this section shall apply to candidates who do not, pursuant to RSA 664:5-a, voluntarily accept the expenditure limitations set forth in RSA 664:5-b. Primary petitions filed under this section shall be in addition to the number of petitions filed under RSA 655:19-c.**

8 Application of Excess Campaign Contributions Restrictions to Congressional Elections. Amend RSA 664:1 to read as follows:

664:1 Applicability of Chapter. The provisions of this chapter shall apply to all state primary, general, and special elections, but shall not apply to presidential preference primaries. The provisions relating to political advertising, RSA 664:14 through 17-a, shall additionally apply to city, town, school district and village district elections. The provisions relating to voluntary expenditure limitations, RSA 664:5-a and 664:5-b, [and excess campaign contributions, RSA 664:4-c,] shall additionally apply to elections for United States senator and representative to Congress.

9 Expenditure Redefined. Amend RSA 664:2, IX to read as follows:

IX. "Expenditure" shall mean the disbursement of money or thing of value or the making of a legally binding commitment to make such a disbursement in the future **for the purpose of influencing the nomination for election or election of any candidate.** It does not include the candidate's filing fee or his expenses for personal travel and subsistence.

10 Reference to Declaration of Intent. Amend RSA 664:5-a, III to read as follows:

III. Affidavits in compliance with this section shall be filed within [10] 3 days after the date on which a candidate files his declaration of candidacy **or his declaration of intent**, or is declared a write-in winner of a primary election.

11 New Paragraph; Political Expenditures for Primary and General Elections. Amend RSA 664:5-b by inserting after paragraph V the following new paragraph:

VI. For the purposes of this section, RSA 664:5-a and the enforcement provisions of this chapter, total expenditures shall mean the sum of all expenditures made to influence either a state primary or a state general election made by a candidate and those made on his behalf by his committee or committees, his party, and his immediate family. Each campaign expenditure limitation amount shall apply solely and independently to either the state primary election or the state general election.

12 Advisory Committee; Additional Member. Amend RSA 664:5-c, II to read as follows:

II. The committee shall consist of the secretary of state, **who shall be an ex officio and nonvoting member**, and [4] 5 other members: one person appointed by the house majority leader; one person appointed by the house minority leader; one person appointed by the senate majority leader; [and] one person appointed by the senate minority leader; **and one person appointed by the governor**.

13 Signature of Treasurer of Political Committee. Amend RSA 664:14, I and II to read as follows:

I. All political advertising shall be signed at the end with the names and addresses of the candidate, his fiscal agent, or the name and address of the chairman or the [secretary] **treasurer** of a political committee, or the name and address of a natural person, according to whether a candidate, political committee, or natural person is responsible for it. Said signature shall clearly designate the name of the candidate, party or political committee by or on whose behalf the same is published or broadcast.

II. Political advertising to promote the success or defeat of a measure by a partnership, corporation, labor union, or other organization shall be signed. The name of such organization shall be indicated and the chairman or [secretary] **treasurer** of such organization shall sign his name and address. Nothing in this section shall be construed to permit contributions which are prohibited under RSA 664:4.

14 Section Heading Changed. The section heading for RSA 664:21 is repealed and reenacted to read as follows:

664:21 Penalty for Exceeding Total Expenditure Limitation.

15 Power of Attorney General. RSA 664:21, III is repealed and reenacted to read as follows:

III. Nothing in this section shall be construed to limit the enforcement powers of the attorney general under RSA 664:18.

16 New Section; Severability. Amend RSA 664 by inserting after section 22 the following new section:

664:23 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect any other provisions or applications of the chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

17 Repeal. 1989, 212:1, VI, relative to a declaration of purpose and changes in federal law, is repealed.

18 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill amends the law on campaign expenditure limitations.



The bill makes it apply to candidates who intend to have their names placed on the state general election ballot by means of primary petitions or nominating petitions. The current law only applies to candidates who are nominated in their party primary, and to write-in candidates.

The bill also:

(1) Changes the membership on the advisory committee which monitors campaign financing statutes.

(2) Requires a candidate who does not voluntarily accept expenditure limitations to pay both a filing fee and to file primary petitions.

(3) Establishes minimum filing fee and primary petition requirements, regardless of whether a candidate voluntarily accepts expenditure limitations.

(4) Adds a new definition for "expenditures".

Senator Bass moved non-concurrence and requested a committee of conference.

Appointees: Senators Bass, St. Jean, and Delahunty.

### COMMITTEE REPORTS

**HB 161-FN**, an act to allow former federal employees to purchase credit for their federal services as creditable service, relative to providing retirement benefits upon the death of certain group I and group II members, and to define employer participation in the retirement system. Insurance committee. Ought To Pass. Senator Hollingworth for the committee.

**SENATOR BASS:** This bill allows for former federal employees to participate in the retirement system. It makes a housekeeping change that allows a person who qualifies but dies between the time the application is made and the first check is mailed that the spouse can qualify under the retirement system regulations. The bill will cost the retirement system nothing because the requirements for gaining access to the system for former federal employees will be based upon the New Hampshire requirements and not that of the federal government or any other entity. So it brings us into line with that which we have done for other groups of individuals similarly affected. We urge your support of the committee report of ought to pass.

Senator Roberge offered a floor amendment.

**SENATOR ROBERGE:** This amendment simply says, and it is one paragraph, it states purpose and intent. "It is the intent of the General Court that the New Hampshire retirement system comply and be subject to the requirements of the employee retirement income

act of 1974, ERISA and the United States Internal Revenue Code and furtherance of this intent the General Court adopts the following amendments." And then it follows on with the bill that we currently have. My reason for introducing this amendment is that it was the intent to make the retirement system a stronger type of system for our very worthy state employees and in keeping with that, this tightens up the requirements of this particular retirement system and puts into compliance with other retirement systems.

Senator Disnard moved to Have HB 161-FN Laid On The Table.

Recess.

Out of Recess.

Senator Disnard withdrew his Motion to have HB 161 Laid On The Table.

### **MOTION TO RECOMMIT**

Senator Hollingworth moved to recommit the bill to committee.

Adopted.

HB 161-FN RECOMMITTED to the Insurance committee.

### **NOTICE OF RECONSIDERATION**

Senator Blaisdell served notice of Reconsideration on HB 627-FN, an act relative to the treatment of repeat DWI offenders.

Adopted.

**HB 550-FN**, an act relative to the withdrawal of accumulated contributions and retirement system membership. Insurance committee. Ought To Pass. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill is a fairly simple bill. It is a question of fairness. It was requested by the municipal association. Under present law, if a person works for a town or city and then retires or leaves the job for some reason before six months are up, that person can get back the money they have contributed to the retirement system. However, the town or city or the state cannot. This bill would correct that inequity and allow the governmental entities to get their money back, too. The amounts of money that you are talking about are small in each individual case, but in the aggregate the fiscal note shows that it would save the state \$17,000 a year and towns and cities \$76,000 per year with no impact on the retirement fund. So we urge ought to pass.

Adopted.



Ordered To Third Reading.

**HB 607**, an act permitting actions for damages resulting from violations of workers' compensation laws by bidders on construction contracts. Insurance committee. Ought To Pass With Amendment. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The Senate committee on Insurance would like to ask ought to pass with amendment on this bill. The purpose of HB 607 is to prevent an illegal practice in the construction industry by allowing private law suits in instances where construction companies fail to make contributions for unemployment and workmen's compensation through illegal hiring of independent contractors. The amendment to the bill is to take care of a loophole in the law. When we did the change in the workmen's comp legislation last year, we left out municipal and county governments and to bring them under the present law where they may also be protected and only allow one lawsuit rather than two.

### **Amendment to HB 607**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

permitting actions for damages resulting from violations of workers compensation laws by bidders on construction contracts and relative to tort immunity for self-insured pools.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Actions for Damages Resulting From Violations of Workers' Compensation Laws. Amend RSA 508 by inserting after section 4-e the following new section:

508:4-f Bidders on Construction Contracts. Any person, firm, association or corporation which suffers damages as a result of a competitive bid for a project involving the construction, repair, remodeling, alteration, conversion, modernization, improvement, rehabilitation, replacement, or renovation of a building or structure not being awarded due to another person, firm, association or corporation knowingly violating RSA 281-A:5 of the workers' compensation law may bring an action for damages or other relief in the superior court against said violator.

2 Definitions. Amend RSA 281-A:2, VIII(c) and IX to read as follows:

(c) Except where the context specifically indicates otherwise, the term employer as used in paragraph VIII shall be deemed to include the employer's insurance carrier **or any association or group providing self-insurance to a number of employers.**

IX. "Employer", with respect to public employment, means the state, any agency of the state, any county, city, town, school district, sewer district, drainage district, water district, public or quasi-public corporation, or any other political subdivision of any of these that has one or more employees subject to this chapter. Except where the context specifically indicates otherwise, the term employer as used in this paragraph shall be deemed to include the employer's insurance carrier **or any association or group providing self-insurance to a number of employers.**

3 Including Self-Insurance. Amend RSA 281-A:8, I(a) and (b) to read as follows:

(a) Against the employer or the employer's insurance carrier **or an association or group providing self-insurance to a number of employers;** and

(b) Except for intentional torts, against any officer, director, agent, servant or employee acting on behalf of the employer or the employer's insurance carrier **or an association or group providing self-insurance to a number of employers.**

4 Effective Date. This act shall take effect January 1, 1992.

### AMENDED ANALYSIS

This bill permits any person, firm, association or corporation which suffers damages as a result of a competitive bid for a project not being awarded due to another person, firm, association or corporation knowingly violating a section of the workers' compensation law regarding securing payment of compensation, to bring an action for damages in the superior court.

The bill also provides protection against certain tort claims to any association or group organized for the purpose of providing self-insurance to employers.

Amendment Adopted.

Ordered To Third Reading.

**HB 242-FN**, an act relative to the powers of county conventions. Internal Affairs committee. Ought To Pass With Amendment. Senator St. Jean for the committee.

SENATOR ROBERGE: This bill clarifies the fact that if a salary or compensation for county officers is going to change, it should be changed before that person files for office, not during their term of



office. In effect, when a person files for office, they will know what their compensation is going to be for the term of that office.

### Amendment to HB 242-FN

Amend the bill by replacing section 1 with the following:

1 County Officer's Compensation. Amend RSA 23:7 to read as follows:

23:7 Establishing Compensation. Every county **convention** shall have the power to establish salaries [and expenses or], **benefits and** other compensation paid to **elected county officers including** the county attorney, sheriff, register of deeds, treasurer, and county commissioners. **For the purposes of this section, "compensation" shall include salary, longevity pay, vacation and sick pay, allowances, and all other payments made by the county to its officers, plus the fair market value of any compensation paid in kind if reportable as income for federal income tax purposes, plus all fringe benefits that may be provided including health insurance and retirement, and may also include an upper limit on the amount of mileage and out-of-pocket expenditures reimbursable to each officer.** Said [salaries] **compensation** shall be established biennially by the county convention prior to the filing date required under RSA 655:14 for the elected offices listed in this section, upon recommendation of the executive committee **which shall remain in effect during their term of office.** Notwithstanding any other provision of law to the contrary, in counties in which any of the [aforementioned] officers **listed in this section** receive fees [and/] or mileage, **or both**, for services performed by them as part of their compensation, the county convention may put such officer on a salary and expenses basis. Such officer may be required to continue to collect the usual fees and mileage for the service performed and to pay over all such fees and mileage to the county treasurer for the use of the county. In such event, the amount such officer received in fees and mileage, less expenses, shall be included in determining the minimum at which his salary may be established unless a lesser amount is agreed upon by the incumbent officer at that time. In no case shall the salary or other compensation of any of the [aforementioned] **such** officers be established at a lesser amount than that which was in effect December 31, 1972.

Amend the bill by replacing section 3 with the following:

3 New Section; County Audits. Amend RSA 28 by inserting after section 3 the following new section:

28:3-a County Audits. In the event that an audit is required, the commissioners, with the approval of the executive committee of the county convention, shall engage the services of a certified public accountant qualified in municipal and county finances for the pur-

pose of conducting an audit of the county books of account. The performance and scope of the audit shall be in accordance with generally-accepted auditing practice. The audit shall include an examination for conformance with state and federal laws and regulations relating to county finances, including rules adopted by the commissioner of revenue administration pursuant to RSA 541-A, and shall also include an examination of any subject of county finances that may be requested either by the commissioners, by the county convention, or by the treasurer. The audit shall be completed within 90 days following the close of the county fiscal year. The commissioners shall cause the report of the auditor, together with the customary management letter and auditee responses, to be published with or supplementary to the annual reports of the county officers.

### AMENDED ANALYSIS

This bill:

(1) Expands the current definition of compensation of county officers.

(2) Redefines responsibility for certain acts relating to county supplemental appropriations.

(3) Provides that if an audit is required, the county commissioners, with the approval of the executive committee, shall engage the services of a certified public accountant to audit the county books.

Amendment Adopted.

Ordered To Third Reading.

**HB 340**, an act relative to compliance with enabling legislation. Internal Affairs committee. Ought To Pass. Senator Roberge for the committee.

SENATOR ROBERGE: This is a housekeeping bill. It clarifies when you use an official ballot and the prescribed wording on the warrant. It makes a differentiation between a warrant and a written ballot. The change is if the official ballot is not used for voting on such a question, the prescribed wording shall be placed in the warrant and may also be placed on a preprinted ballot to be acted upon in open meeting in the same manner as a secret yes/no ballot under RSA 40:4-A.

Adopted.

Ordered To Third Reading.

**HB 625-FN**, an act relative to hearings on tax abatements for property taxes. Internal Affairs committee. Ought To Pass. Senator Delahunty for the committee.



**MOTION TO RECOMMIT**

Senator Disnard moved to Recommit HB 625-FN to the Internal Affairs committee.

Adopted.

HB 625-FN, IS RECOMMITTED.

**HB 673-FN**, an act reinstating the charter of Capitol Leasing Company, Inc., and Hagen and Speziali, Inc. Internal Affairs committee. Ought To Pass. Senator Roberge for the committee.

SENATOR ROBERGE: We had two firms that had allowed their charters to lapse because they hadn't kept up their yearly payments. They are asking for reinstatement. They are going to have to pay up the back dues and they need legislation to do this. They cannot do it without passing a piece of legislation and we agreed to allow them to do it.

Adopted.

Ordered To Third Reading.

**HB 684-FN-A**, an act regarding the committee to study conservation and preservation of state historic flags and making an appropriation therefor. Internal Affairs committee. Ought To Pass With Amendment. Senator Podles for the committee.

SENATOR PODLES: HB 684 sets up a committee of eight people to study the conservation and the preservation of state historic flags. It adds an appropriation of \$1.00. It also authorizes the same committee to receive gifts, monetary grants or donations of any kind to continue the management of the flag collection. All of the donations will be deposited in a special trust fund with the state treasurer and a report of the funds and the recommendations will also be sent to the Governor, the Senate President, and also the Speaker of the House. The amendment tightens language. The committee urges support for the bill.

SENATOR CURRIER: Senator Podles, last session we passed legislation to do this. Is this just basically extending this authorization?

SENATOR PODLES: It is extending it, yes. But it is a sort of new committee that has been established. They will be doing the same thing but they will be going after gifts, which the other legislation did not authorize.

**Amendment to HB 684-FN-A**

Amend the bill by replacing section 3 with the following:

3 Committee Duties. 1990, 34:3 is repealed and reenacted to read as follows:

34:3 Duties.

I. The primary duty of the committee shall be to conduct a study, make recommendations, hire conservation personnel, and commence conservation and preservation of the flags displayed in the hall of flags of the state house and any other historic flags which the state may own or receive. The committee shall elect its own chairman, vice-chairman, and secretary from among its members. The committee's duties shall include, but not be limited to, conducting a study and preparing a report including an evaluation of different conservation options, a professional condition report and options for conservation of individual items in the collection, and recommendations regarding display and storage of the collection. The committee shall:

(a) Establish project schedules and timetables, project expenses including an estimate of total conservation, display, interpretation, and continuing management costs, and propose a budget for the recommended expenses.

(b) Establish specific conservation measures.

(c) Obtain a professional condition report and photograph of each item in the collection.

(d) Establish a plan for continuing management and conservation.

II. The chairman, with the advice and consent of the committee, is authorized to hire consultants as required, subject to budgetary limitations.

III. The chairman, with the advice and consent of the committee, is authorized to hire a professional textile conservator or other suitable professional to commence the conservation work within budgetary limitations under the supervision and direction of the state curator.

IV. Notwithstanding any other provision of law, the committee is authorized to receive gifts, grants or donations of any kind made for the conservation, preservation, interpretation display and continuing management of the flag collection. All monetary grants, gifts, or donations shall be deposited in a special trust fund so designated and on deposit with the state treasurer and shall be administered by the elected officers of the committee. Interest earned by this fund shall become part of the fund and not returned to the general fund.

Amendment Adopted.

Ordered To Third Reading.

**HB 723-FN**, an act relative to Concord - state cooperation. Internal Affairs committee. Inexpedient To Legislate. Senator St. Jean for the committee.



SENATOR ST. JEAN: We heard this bill in Internal Affairs and we felt that it was not proper at this time to pass this piece of legislation. We urge that it be killed.

### SUBSTITUTE MOTION

Senator McLane moved to substitute Ought To Pass for Inexpedient To Legislate.

SENATOR MCLANE: This is really a fairly innocuous bill in that it uses the words "to provide notice and shall report", and all it asks for the state and the city of Concord is that Concord have some warning of what the state is contemplating. The city of Concord has been good to state government. And the city of Concord is a community that has one third of its tax rate in tax exempt property. We have high property taxes and yet we have welcomed not only 1000 people discharged from the New Hampshire Hospital as Concord citizens but some members of the legislature that cannot be fully distinguished from those people. I think I look at the make up of the House and Senate and realize that there are many prominent Concord citizens; the chairman of Appropriations, the Majority Leader, the Deputy Speaker all come from Concord and yet it is often true that the state makes decisions about property without notifying, and all we ask is to be notified, of purchases made. So for this reason, I beg of you that we have some cooperation. We are doing our best and I know you are doing your best. But I think that to have that sort of cooperation would be helpful to both the city of Concord and the state of New Hampshire.

SENATOR HEATH: Senator McLane, assuming that I am on your list of indistinguishables, I nonetheless wanted to risk asking this question. In your statement you talked about Concord absorbing those individuals and I am wondering, when we deal with the Camp Success issue are you going to have the same sympathy towards the Laconia situation?

SENATOR MCLANE: Absolutely. And I have said this from the beginning that the reason I support Camp Success is because I know full well that Concord has not only welcomed the New Hampshire Hospital and the merchants of Concord are wonderful to those people, but the prison as well and we haven't objected. And I think it is to our credit.

SENATOR HEATH: So you support Camp Success and are not sympathetic to that community to absorb those people?

SENATOR MCLANE: I am sympathetic to the community and what I said was that Concord has done this and done it in good grace and with good humanity.

SENATOR HEATH: But hasn't Concord had the most inflation, recession, depression proof industry placed in it than any person or body could create in having state government come here?

SENATOR MCLANE: If you are referring to state government, until the Governor's latest plan for layoffs, I would have agreed with you but now I am not so sure.

SENATOR DUPONT: I want the record to show that Rochester has volunteered to be the state capitol if Concord no longer wants us.

SENATOR PODLES: Senator McLane, do you believe that by passing this bill, this is going to improve communication which they have difficulty doing?

SENATOR MCLANE: I do and I think it is unfortunate. But I know there is a local and a state cooperation committee and it hasn't met in a good six months.

Recess.

Out of Recess.

SENATOR DELAHUNTY: I would like to speak in response to Senator McLane's concern for her constituency. I was on the committee that heard the bill and I agree with Senator McLane that the cooperation and the spirit of cooperation should always be there. And I would be very disappointed if it wasn't there. And I would hate to think that we have to have legislation to get state government to cooperate with its host city. Sometimes, in negotiations, the more people and the more departments you are apt to involve and the more steps you are apt to involve in the process, it could possibly hinder the process. And I would hate to have to think that we would have to put into legislation a requirement that the state cooperate with its host city to get them to do it. The feeling that we had, after hearing testimony, was that the cooperation did exist, should exist, and would continue to exist and if it didn't, then perhaps we should do something. But to put into absolute law, I just want to caution you, that at some point, it could hinder a potential development of some sort. I am not sure what that might be, and I have nothing in mind and no ulterior motive. But I would rather encourage the state to cooperate than to put it into legislation. But I certainly respect Senator McLane's desires.

SENATOR NELSON: Senator St. Jean, on page 2 of the bill when it talks about eminent domain, I am wondering why? Was part of the reason this bill came out inexpedient because, when you talk about eminent domain, any real estate for the use by the state could be included? I want you to look at that and I wonder if that wasn't part



of your concern. And secondly, the Manchester Airport is being studied and say we had to take homes by eminent domain down there or land and for highways in Nashua and land anywhere else. Why shouldn't homeowners, if they are going to lose their land have 60 days notice before the state comes in. I am just curious if you could give us some insights into why this committee voted inexpedient.

SENATOR ST. JEAN: You have expressed very well, Senator, all our concerns, Senator Delahunty and I and the chairman of this pending piece of legislation.

SENATOR HOLLINGWORTH: Senator McLane, isn't it true that Concord has a great deal of property that is owned by the state?

SENATOR MCLANE: Yes. A lot.

SENATOR HOLLINGWORTH: And all this bill is asking that there is 60 days notice or written notice?

SENATOR MCLANE: To the regional planning commission. Not to the local citizens, not in the paper. Just to the regional planning commission.

SENATOR HOLLINGWORTH: There is nothing in here that overrides state government or anything. It just requires notification?

SENATOR MCLANE: Absolutely. I have a question of Senator St. Jean. Isn't it true that it is slightly different in the situation of Concord in that when the state sets up a building such as over on the Heights that the local community has to provide the fire protection, provide the police protection, make the street lights. I think of the Heights as part of the question because they did move a fire station over there, after those buildings were built. Isn't it true that it is a little different when you are talking about a building that the community then has to provide those services?

SENATOR ST. JEAN: I would agree that protection is by the city of Concord and is an inherent cost in that protection.

SENATOR NELSON: Senator St. Jean, what will happen in the Manchester area, if in fact, we go forward with the construction of highway roads? Will the people in that area be notified 60 days in advance that they could lose their homes? Will the city of Manchester have to incur the cost for the lights for the roads and everything else, not to mention what the developers and everyone else will have to do. Will not these be costs incurred by the Manchester people?

SENATOR ST. JEAN: Yes, they would be, Senator.

SENATOR COLANTUONO: Senator St. Jean, is one of the difficulties that the committee had with the bill the fact that the term Concord region is not defined, so that we are telling the Governor and Council and everybody here in this bill they have to give notice of things happening in the Concord region but we are not telling them what we mean by it. So there is no real way they can comply with it?

SENATOR ST. JEAN: I defer to Senator McLane who is the sponsor of the legislation who can tell us what she meant by that point.

SENATOR MCLANE: The state capitol region planning commission has a definition, it is within the environs of the city of Concord. Concord is 64 square miles. And so it is not the whole city of Concord, even. It is the region. So it is a fairly small defined area that includes state property.

Question is on the substitute motion of Ought to Pass.

The Motion of Ought To Pass is Adopted.

Ordered To Third Reading.

Senators Heath and Nelson are in opposition to HB 723.

**HCR 2**, a resolution urging Congress to propose a constitutional amendment requiring a balanced federal budget. Internal Affairs committee. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: HCR 2 urges Congress to propose a constitutional amendment requiring a balanced federal budget. The federal budget is out of control. Fifty percent is now spent on debt service. The resolution sends a message to Congress to cut spending and to operate within existing revenues. It is sort of a directive to force elected officials to honor their fiscal responsibilities. And also that constitutional restraint is necessary to restore financial responsibility. The committee recommends ought to pass.

SENATOR HEATH: Senator Podles, is this a principle that you would endorse on the state level as well?

SENATOR PODLES: I would like to, yes.

Adopted.

Ordered To Third Reading.

**HB 362-FN**, an act establishing the northeast conservation law enforcement compact. Interstate Cooperation committee. Ought To Pass. Senator Cohen for the committee.

SENATOR COHEN: This bill simply recognizes what is already going on between the states. The fish and game asked for passage of this bill. It allows them to continue undercover work in Maine and Vermont and allows our officers to be going over to their states and



their officers coming over to our state. It is a very significant process to prevent violations of fish and game regulations. And I was told just earlier today that there was an undercover operation underway when the committee hearing was going on. The next day, they caught some people selling illegal moose meat to be used for beef jerky. We want to try to prevent that.

Adopted.

Ordered To Third Reading.

**HJR 1**, an act concerning the settlement of the Portsmouth, New Hampshire Naval Shipyard and inner Portsmouth Harbor border dispute between New Hampshire and Maine. Interstate Cooperation committee. Ought To Pass. Senator Shaheen for the committee.

**SENATOR SHAHEEN:** This bill would require the attorney general of New Hampshire to consider all appropriate avenues in attempting to resolve the boundary dispute over the Portsmouth naval shipyard. This is a particularly critical issue for those of us who live on the Seacoast, obviously the naval shipyard is a very valuable piece of property. There are 4000 New Hampshire workers who live here, who are currently being taxed by the state of Maine. If we can resolve the boundary dispute so that there is no question about the Portsmouth naval shipyard being in New Hampshire that revenue will come to New Hampshire instead of going to Maine. And I urge the Senate to pass this resolution.

**SENATOR BLAISDELL:** Senator Shaheen, would you believe that a few years ago, in the wisdom of the Finance committee, that we took out our charts and I think Senator St. Jean was there and we took Portland, Maine in the boundary? I want to make sure that we don't do it again, and I want to know who your nautical person was on the committee? I just want to make sure we haven't taken Portland, Maine because we almost had the state get into a fight with the department of navy in Maine, would you believe?

**SENATOR SHAHEEN:** I believe it.

**SENATOR COHEN:** I just wanted to add my concurrence. This definitely ought to pass. There is an abundance of research indicating that a reasonable doubt exists, at the very least, as to whether the Portsmouth naval shipyard is, in fact, in Maine. A great deal of research on that. The yard is a significant economic resource. There is tremendous potential for new jobs and new job growth, for diversification at the shipyard. I think that New Hampshire should try to, at least, derive the maximum economic benefit from the shipyard. This bill would also address, as Senator Shaheen mentioned, the

clearly unfair spousal tax which affects people in her district as well as in mine. And this orders the attorney general to pursue this matter with all due vigor. I appreciate your support of the people of my district and Senator Shaheen's district and Senator Dupont's district.

SENATOR CURRIER: Senator Cohen, if we, in fact, do acquire the Portsmouth naval shipyard as part of New Hampshire, will we also incur the expense of cleaning any nuclear waste that is there?

SENATOR COHEN: I had a feeling that someone might ask that. That was a federal responsibility creating the nuclear waste, and it remains a federal responsibility for cleaning up the nuclear waste. It is their problem, and we bear no fiscal responsibility.

SENATOR CURRIER: Just like their problem at Pease?

SENATOR COHEN: Precisely.

Adopted.

Ordered To Third Reading.

**HB 310-FN**, an act increasing the hazardous waste transporter vehicle registration fee. Transportation committee. Ought To Pass. Senator Pressly for the committee.

SENATOR PRESSLY: The committee unanimously voted ought to pass on this bill. This bill increases from \$50 to \$100 the hazardous waste transporter vehicle registration fee assessed on each vehicle listed in the hazardous waste transporter permit application. The recommendation is ought to pass.

SENATOR COLANTUONO: Senator Pressly, simple question. Was there a policy reason for increasing the fee or is it just simply a revenue raising measure?

SENATOR PRESSLY: I think a combination of both. The costs associated with the fee, as you know, the scientific technology relative to hazardous waste is more complicated and more expensive and the thought was that it was time to raise the fee to cover the costs of taking care of it.

Adopted.

Ordered To Third Reading.

**HB 666-FN**, an act relative to protection and control of municipal highways. Transportation committee. Inexpedient To Legislate. Senator Heath for the committee.

SENATOR HEATH: The committee felt that the towns did not have the engineering expertise to determine weight limits, that there was no demonstrated need for the legislation, that it could lead to abuse



true to the logging industry and home building industry and so on. So for that reason we recommended that it be inexpedient to legislate.

Senator Pressly moved to have HB 666-FN, Laid On The Table.

Adopted.

HB 666-FN, IS LAID ON THE TABLE.

**HB 705-FN-A**, an act establishing the New Hampshire scenic byways planning program. Transportation committee. Ought To Pass. Senator Currier for the committee.

**SENATOR CURRIER:** This bill establishes a New Hampshire scenic byways planning program to compile an inventory of state scenic highways and submit recommendations for the creation of state scenic highway/byway system. The federal government, President Bush's new proposal in terms of the highway fund, is actually allocating money for the specific purpose of a scenic byways plan and there is a potential to tap upwards of \$15,000,000 in terms of federal funds, should this planning phase be in place here in the state of New Hampshire. It is quick program. It is intense study over the next year and a half and it expires specifically for presentation to the 1992 legislature. It is a way to tap additional federal monies for improving our highway system in New Hampshire so that the many tourists that come to the state would have the infrastructure to actually get here and enjoy the scenic highways.

**SENATOR HOLLINGWORTH:** Senator Currier, I noticed on page 4 that there is a fund that is established where you can accept grants and gifts and so forth. This is happening, it seems, quite often, like we just voted a few minutes ago to have the flags that we would have a fund set up. I was just wondering, I have heard lately that there has been a decrease in donations to groups and funds. Do we have any reason to think that we are going to be getting donations from people for these different projects that we are setting up with monies going into it?

**SENATOR CURRIER:** The committee, with specific reference to this bill, didn't hear specific foundations or trusts that had an abundance of money to spill over into this fund, but the thing is that in terms of what might be open in the future, they were leaving the door open so that should those funds become available, they would be able to be placed in this fund. I agree with you about the intent of what we are doing with these funds, however.

**SENATOR JOHN KING:** Senator Currier, will this eventually establish another agency to take care of this? I have noticed that there

are all different things, the byways, the riverways, the highways. Are they going to put them all together?

SENATOR CURRIER: There have been a number of bills dealing with the scenic highway legislation that is before the Transportation committee, some of which we killed. In fact, this bill was recommit-  
ted to committee last Tuesday when we found out that there were federal funds attached to the proposal or the potential for. This does not create another level of bureaucracy. There is already a scenic highway planning commission going on but this is a specific task that we have outlined here. We are not adding to. It does seem like we are adding a lot of bureaucracy but it's adding to something that is already existing in this particular case.

SENATOR HEATH: Senator Currier, you just stated that this came out inexpedient and we returned it to committee when we found out that we could tap some federal funds, is that correct?

SENATOR CURRIER: Yes.

SENATOR HEATH: Senator Currier, do you think that attitude is fair in light of the fact that we just passed a resolution asking the federal government to balance their budget? That we didn't want this until we found out we could tap some free money from the feds?

SENATOR CURRIER: Senator, the thing is, until Congress changes their attitude I think that anything we can do to get our fair share of our dollars back from Washington, is appropriate. And I think going forward with this planning stage to hopefully be able to piggy back on to additional federal funding that it is in the best interest of the state of New Hampshire.

SENATOR HEATH: But, Senator, isn't that being hypocritical?

SENATOR CURRIER: It may be, but I guess I am a realist.

SENATOR HEATH: In that we decided we didn't want this bill until we found out that we could get some federal funds?

SENATOR CURRIER: Well, Senator, to be honest about this whole situation, the fact of the matter is the committee originally looked at this very lightheartedly after the committee hearings and while we were going through our executive sessions. We had three bills dealing with scenic highways, and I believe we killed one of them and we are about to kill another one. But it is specifically dealing with cities and towns having the ability to cut trees along scenic highways. So we did pass that one, but we killed the other one and this one. But then when it was brought to our attention that there were significant federal dollars here that we were passing up, we thought we shouldn't do that.



SENATOR HEATH: Is that a yes?

SENATOR CURRIER: A maybe.

SENATOR OLESON: I rise in support of HB 705. As I remember, and I still can remember last session, we started what we call the Heritage Trail in one thing and another. At that time, what this trail defined was going up the Merrimack river, through Franconia Notch and down through Littleton, because this is the route that they took when they settled in this part of New Hampshire. On the other hand, through the western part of New Hampshire, they came up through Grafton Notch and down through Migalloway and down that direction. What this does is more or less enhance a program that is already underway to take and extend and create better byways and extend the Heritage Trail. We want to remember that in New Hampshire, what we like to do is spend several million dollars into coaxing people to come to New Hampshire so we can pick their pockets to a certain extent, but nevertheless when they do come here, there should be something waiting for them and something that they can utilize and that is why we try to have these major attractions. This does enhance a major attraction. Evidently, there are certain federal funds that can be tapped for this purpose and it is more or less to enhance the hospitality people if you want, but these same people are the people who furnish money back to New Hampshire so we can fund certain programs which many people down here seem to like to have. I urge very strongly that the Senate adopt HB 705.

SENATOR HEATH: I am rising against this piece of legislation. If we are going to try and get the federal government to get their budget in order, this is where we should do our part. Everybody in this room could go in their area and designate three or four scenic byways and pass it in. In an hour and half in this room, you could do all the work that this committee is going to do, spending money, having somebody over at state planning, getting the federal share involved and so on. This isn't rocket science to figure out where scenic byways and highways are to put them on a map for tourists to find. This is the kind of money that we shouldn't be spending. It isn't necessary. They could do this over at planning on a good afternoon easily. This is not anything that requires the tens of thousands of dollars that are going to stem from this. What we are going to do is build another little niche over at state planning, and get a whole bunch of people involved in doing something that doesn't take that much to do. It seems to me that if we are going to send messages to the federal government to get their house in order, we ought to stop sucking at the udder of these programs that are marginal at best.

This is the place to start. I would urge you to vote against this and put some teeth in what we just did with the balanced budget amendment.

SENATOR MCLANE: The New Hampshire Congressional delegation just received a report card on effectiveness. And they were rated the lowest of any State in the Union. Apparently in Washington, the word effective means "gets federal funds". The reason being that the state of New Hampshire, for all the money that we send to Washington, gets back less than any State in the Union. And to have a proposal for a tourist state to have scenic byways and for us to turn it down because we don't want that money that we sent down there, I think is a double wrong.

SENATOR HEATH: Senator McLane, I know there has never been a federal dollar that you didn't want to spend, but don't you think that they could do this in house on a rainy afternoon with one hand tied behind their backs?

SENATOR MCLANE: No. I would think that they would have to get in a car and drive around a bit. And I think that is going to cost money. I think they would have to consult with other citizens, "what are your favorite scenic byways?" I can think of a lot of reasons that they can't just do it on a Sunday afternoon. Perhaps there is a national scenic byways map. And in order to get on it, you can't have a grade above such and such or whatever. I am not sure, but I think that if New Hampshire is going to be a tourist state in the 21st century, that they should be cooperating in every way with tourists and tourism from other states.

SENATOR HEATH: Senator McLane, do you think that it is an admirable goal of the state to see how much money they can get from the federal government?

SENATOR MCLANE: I think you are being penny-wise and pound foolish to pass up a bill such as this that says we should join in the planning for scenic byways. It just seems to me something that a tourist state ought to do. And what I am pointing out is that New Hampshire gets less federal money than any other state in the Union.

SENATOR OLESON: Senator McLane, does not the bill say that a certain amount of money can be made available? It isn't a certainty that the federal government is going to ship down a check of \$15,000. But it does say that when we continue our Heritage Trail, etc. and if approved by the federal government and if they want to deny it that will be their right, but if they do approve it then we can be funded for certain projects which I deem necessary for New Hampshire.



SENATOR MCLANE: You are absolutely correct.

Adopted.

Referred To Capital Budget (Rule #24).

## **REPORT OF COMMITTEE ON ENROLLED BILLS**

### **Enrolled Bill Amendment to SB 29-FN-A**

Amend RSA 14-B:3, IV as inserted by section 1 of the bill by replacing line 10 with the following:

actions under subparagraph I(c) until these 3 legislative days have passed.

SENATOR CURRIER: This amendment corrects a technical numbering error in the bill and cross references to the renumbered provisions.

Amendment Adopted.

## **TAKEN OFF THE TABLE**

Senator Bass moved to TAKE OFF THE TABLE HB 743-FN, an act relative to listing representatives to the general court on the ballot.

Adopted.

**HB 743-FN**, an act relative to listing representatives to the general court on the ballot.

SENATOR BASS: As you may recall this bill was brought out a couple of weeks ago and all it does on ballots is change the words "Representative to the General Court" to the words "State Representative". Senator Colantuono very rightly brought up the question as to whether or not this might be in some conflict with the state constitution. As a result of that I moved to have this bill placed on the table. Subsequent to that time, I have discussed this matter with the Secretary of State and also reviewed the constitution myself. In part 2, article 2 of the constitution says, "that the supreme legislative power within this state shall be vested in the Senate and the House of Representatives each of which shall have a negative on the other." Then article 3 says, "shall dissolve and be dissolved at 12:01 a.m. on the first Wednesday in December in even number years, and shall be styled the General Court of New Hampshire". It already says State Senator on the ballot now, and there hasn't been any challenge made to that terminology and it is felt that State Representative would, because it is mentioned in article 2, would not constitute any conflict either. So having resolved that question, the committee urges your adoption of the committee report of ought to pass.

Adopted.

Ordered To Third Reading.

### **HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate.

**SB 222-FN**, relative to a study of alternative transportation.

Senator Oleson moved concurrence.

Adopted.

### **HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 152**, relative to a joint New Hampshire-Quebec trade council.

Senator Bass moves concurrence.

Adopted.

### **HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 4-FN-A**, establishing a committee to study the New Hampshire state port authority and relative to international trade.

Senator Bass moves concurrence.

Adopted.

### **ANNOUNCEMENTS**

Senator W. King (Rule #44): I passed out this little editorial to everybody just so you could see today's editorial from the Union Leader, because I wanted you all to know that I called Jim Finnigan. And I wanted to know why he was taking pot shots at our esteemed President for offering what was a responsible suggestion for dealing with some of the problems that we are facing. And I wondered why it was that they didn't say anything when Governor Gregg suggested that we bond the land trust. After all, the land trust is nothing more than



development rights and legal concepts, so we are bonding a legal concept there. Or why he didn't say anything when the Governor suggested that we bond \$12,000,000 of sewer bonds that were already bonded, bonding a bond. And as you can see in the second half of the editorial, at the top full paragraph, he takes a little bit of a pot shot at me. But Jim Finnigan wasn't there. And I asked his secretary where he was. She said he was all over Manchester looking for a hole. I said, "Hey if that is all you need, you should come to the chairman of the environment committee, because I have a hole right here for him." So I am going to present this to Jim Finnigan. Thank you.

SENATOR OLESON (RULE #44): A few days ago, there was a picture of myself in the paper and it said on May 18, I was going to be given the plague. From time to time, I have questioned the reliability of events by a certain newspaper. Another thing, they spelled my name wrong. Now my name is spelled O-L-E-S-O-N which most people take that I am of Norwegian extraction. I am on my father's side. But when they spell it O-L-E-S-E-N, they might mistake me for a Swede and I resent that.

SENATOR HUMPHREY (Rule #44): I am sorry to have to address a somber matter, but I think it is important to do so, in light of the Senate's tabling on Tuesday of HB 298, the bill that would lower the blood alcohol level from .10 to .08. I want to read a brief part of a news story that flashed across our state some months ago. It reads, Sanbornton. "Three girls were fighting for their lives in Hanover hospital last night after a Massachusetts man driving southbound in the northbound lane of Interstate 93 collided with their car Saturday afternoon, killing himself, the female driver of the girls' car and her 14 year old daughter. State Police said Melville C. Young of Plymouth, Mass. wrongly entered the highway in the southbound lane in New Hampton. He traveled at least 8 miles before colliding with the car being driven by Kathleen Hanson and another car being driven by Peter Kelly shortly after 5:00 p.m. Young Hanson and her 14 year old daughter, Kristen Hanson were killed in the crash. Kelly was not injured in the crash according to police. Three other passengers in Hanson's car, 8th graders Krista Matthews, and Amber Duncan, and 9th grader Melissa Matthews, all from Ashland were freed from the car and taken to Hitchcock Hospital with head and internal injuries. Hospital spokesman confirmed that all three girls were in critical condition last night. "All three had been unconscious since the crash and are in the intensive care unit according to relatives. Krista Hanson and Melissa Matthews have had their spleens, which were ruptured in the crash, repaired by surgery and Amber Duncan has had facial reconstruction according the relatives. I am sorry to have to

add to that that Amber Duncan died subsequently. Another report connected with that same tragic accident says this, "Alcohol was a major factor in last weekend's accident on Interstate 93 that left 3 dead, (actually 4, ultimately), the state medical examiner said." Mr. President, the bill that we tabled the other day, temporarily I hope, was one of the primary recommendations of the Governor's task force to prevent impaired driving, which was studied over a year's time and whose report was issued on July 1 of last year. So far, we have enacted none of the four of the 13 recommendations which the DWI implementation team selected for enactment this year. So far none. I am not saying the game is over yet, but we haven't exactly acted with alacrity and especially on the more important of those bills. I could speak with a good deal more heat about this matter, but I don't want to at this juncture, nor am I going to move to take it off the table today, but I hope that somebody will and I shall myself, if someone else doesn't. I am not saying that had that bill been law this terrible accident could have been prevented. We don't know. It might have been, it might not have been. Nor am I saying this was the only accident. But it certainly was a terribly tragic accident, because it involved innocent parties dying at the hands of a drunk driver. Not only the drunk himself, but three others. Children. We can all imagine the feelings of the parents and the friends and relatives. And those aren't the only friends and relatives that have been put through this kind of tragedy. Their numbers are legion. I am not saying that passage of HB 298 will eliminate drunk driving accidents. But I think a substantial change in attitudes will. And HB 298 is directed towards a substantial change in attitudes intended to send a signal that in the state of New Hampshire, as in the state of Maine, we are taking a very serious, hard-nosed attitude and approach towards drunk driving. So I hope my colleagues will think of these young victims over the next couple of days as they think of ways that, perhaps, we can affect these bills without moderating their influence, their effect. So that we can bring that one off the table and bring back out of the Transportation committee the open container bill and show the people of this state and our neighbors and those who might drive here that we are very serious about this report. That it wasn't just another government report on which some talented people wasted months of their lives, but that it is a report which we intend to implement.

SENATOR HOLLINGWORTH (Rule #44): I understand you can't make questions, so I figured that this is the only way that I could go on record that I know that this House and this Senate in the last ten years that I have been here have worked very hard on the DWI bills and we have one of the strongest DWI packages in the country. And



I stand here proud as a Representative that has seen that come to pass in this state and I don't think that we have acted inappropriately in the past, nor do I think we will in the future. And though this is tragic that this death occurred and any death occurs in that, I have seen when we have had an alcohol related casualty, when it was the person who died who was the drunk individual and was not the person who was driving the vehicle. So I would like to go in defense because I think we are being chastised again here today by a fellow Senator and I don't think it is appropriate that we are. I think we have acted appropriately in years past. We have passed good legislation and we have done it with forethought and I stand proud of what New Hampshire has done.

SENATOR PRESSLY (Rule #44): Certainly based on some of the words that I have heard this afternoon and prior to that we talked about appropriateness and those of us who would like to see some of the questions answered that were posed in the debate the other day would like to have that opportunity and are planning to do that. I hope that the body will be patient and sensitive and at the appropriate time, when we feel that some of the questions that were raised can be answered effectively that there will be an opportunity for everyone to have those questions answered and to take action at another time.

### PARLIAMENTARY INQUIRY

SENATOR MCLANE: I have a parliamentary inquiry. I thought that one of those bills was sent back to committee and one was tabled and yet I don't see it listed as on the table?

SENATOR DUPONT: It was left out. But in fact it is on the table and one was recommitted. The open container bill was recommitted as I understand and the .08 bill is now on the table.

SENATOR OLESON: Senator McLane has touched on one of the bills that came out of my committee, HB 620. This is the open can as it is commonly referred to. We didn't have time to touch on it at the last executive session, but we will have an executive session next week around Wednesday at 10:00 and I hope those people who are interested and have objections to HB 620 might be there and bring their objections so that we can come back with a bill which is acceptable to at least the majority of the Senators here. As I said before, I think this year, more than most, DWI has become a nuisance and a disaster on the highways. And I am sure that every Senator here is trying to find rules and regulations and whatever to see that we might curb such a sensitive situation. I will invite you again, Wednesday at 10:00 a.m. If you can, find your way to come over and

come up with ideas where we can come up with a bill which will satisfy most people and to try and curb what is going on on our highways. I welcome that.

### RESOLUTION

Senator Delahunty moved that the Rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

### RESOLUTION

Senator Delahunty moved that the Senate be in recess until May 7, at 1:00 p.m. for the sole purpose of introducing legislation, referring bills to committee, scheduling hearings and enrolled bills reports.

Adopted.

Senator Currier moved that we recess until May 7, 1991 at 1:00 p.m.

Adopted.

### LATE SESSION

#### Third Reading and Final Passage.

**HB 242-FN**, an act relative to the powers of county conventions.

**HB 310-FN**, an act increasing the hazardous waste transporter vehicle registration fee.

**HB 340**, an act relative to compliance with enabling legislation.

**HB 362-FN**, an act establishing the northeast conservation law enforcement compact.

**HB 550-FN**, an act relative to the withdrawal of accumulated contributions and retirement system membership.

**HB 607**, permitting actions for damages resulting from violations of workers compensation laws by bidders on construction contracts and relative to tort immunity for self-insured pools.

**HB 673-FN**, an act reinstating the charter of Capitol Leasing Company, Inc., and Hagen and Spegiali, Inc.

**HB 684-FN-A**, an act regarding the committee to study conservation and preservation of state historic flags and making an appropriation therefor.

**HB 723-FN**, an act relative to Concord - state cooperation.

**HB 743-FN**, an act relative to listing representatives to the general court on the ballot.



**HJR 1**, an act concerning the settlement of the Portsmouth, New Hampshire Naval Shipyard and inner Portsmouth Harbor border dispute between New Hampshire and Maine.

**HCR 2**, a resolution urging Congress to propose a constitutional amendment requiring a balanced federal budget.

Senator Currier moved to recess until May 7, 1991 at 1:00 p.m.

Adopted.

Recess.

Out of Recess.

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The committee on Enrolled Bills has examined and found correctly Enrolled the following entitled Senate Bill:

**SB 228**, relative to the treatment of New Hampshire investment trusts and the open bank assistance program under the New Hampshire business profits tax.

Adopted.

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House Bills:

**HB 52**, relative to group health insurance participation by members of the general court.

**HB 278**, relative to liability and indemnification of regional planning commissions.

**HB 397**, relative to persons afflicted with Alzheimer's disease.

**HB 398**, relative to determining qualifications of applicants to vote.

**HB 433**, establishing a developmentally delayed category.

**HB 475**, relative to appointment of banking department assistants, and to the performance of contract services by the banking department, and to assessing the costs of bank examinations.

**HB 484**, relative to when electric companies are public utilities and affiliates of public utilities.

**HB 573**, relative to unauthorized insurance.

**HB 565**, relative to marine oil spill response, oil spillage in surface waters or groundwaters and underground storage tanks.

**HB 574**, relative to managing general agents.

**HB 580**, relative to insurance rebates and automobile financing.

**HB 589**, relative to holding companies.

**HB 335**, relative to license plates for antique motor cars.

**HB 339**, relative to traffic signals.

**HB 350**, relative to assault.

**HB 373**, relative to agricultural and farm motor vehicle license plates.

**HB 481**, relative to disposition of a deceased individual's estate.

**HB 553**, relative to the Bridge Street Bridge over Storrs Street in the city of Concord.

**HB 575**, relative to liquidation and rehabilitation of insurance companies.

**SB 1**, relative to the senate committee which is to study redistricting state senate districts.

**SB 2**, relative to the senate committee which is to study redistricting congressional districts.

**SB 15**, relative to special identification of legislation that may have an impact on local expenditures or requires the state to forward all or part of any designated revenues to cities or towns and relative to mileage payments to members of the legislative ethics committee.

**SB 29**, establishing a legislative ethics committee.

**SB 123**, relative to the wine industry of New Hampshire.

**SB 143**, extending time limits for condominium projects.

Adopted.

## **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

**HB 448**, appropriating funds for environmental and engineering design studies for the Ledyard Bridge in Hanover and making an appropriation therefor.

**HB 452**, relative to solicitation of prostitution.

**HB 460**, relative to the health data advisory committee.

**HB 490**, relative to continuation of state health and dental insurance benefits for state employees called for active duty between August 2, 1990, and March 15, 1991.

**HB 530**, relative to marital arbitration.



**HB 539**, relative to a committee to study the uninsurable and making an appropriation therefor.

**HB 551**, relative to the distribution of taxes from towns to village districts.

**HB 567**, relative to stepparents' visitation rights.

**HB 578**, establishing an advisory committee on Governors state park in Laconia.

**SB 25**, relative to obtaining out-of-state driving records.

**SB 106**, relative to anatomical gifts.

Adopted.

Out of recess.

### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, May 7, 1991.

Adopted.

### LATE SESSION

Senator Delahunty moved to adjourn.

Adopted.

Adjournment

*May 7, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, we thank you for the continuing progress in President Bush's health. This will cut down the talk about Vice President Quayle's qualifications - no good! Let's get rid of hairsplitting from personal idea's or from pressure groups. Hey lets do our own things our own way. Bless us Lord.* *Amen*

Senator Roberge led the Pledge of Allegiance.

## HOUSE MESSAGE

### HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House of Representatives asks the concurrence of the Senate:

**SB 19-FN**, establishing penalties and fines for use of blue lights by any person other than a certified police officer.

Senator Currier moves concurrence.

Adopted.

## COMMITTEE REPORTS

**HB 139-FN**, an act relative to fair credit billing. Banks committee. Interim study. Senator Disnard for the committee.

**SENATOR DISNARD:** The Banking committee requests the Senate to assign HB 139 to interim study. The reason being, this only addresses one area of the financial organizations and the strong feeling at the hearing and among the members of the Banking committee, this should expand to include the entire industry. So that is the reason.

Committee Report Adopted.

**HB 139-FN**, IS SENT TO INTERIM STUDY.

**HB 187**, an act including agents of investment advisors in the definition of "agent" under the securities laws. Banks committee. Ought To Pass. Senator Pressly for the committee.

**SENATOR PRESSLY:** This bill adds the term investment advisor to the definition of agent under the securities laws. The committee recommendation is ought to pass.

Adopted.

Ordered To Third Reading.

**HB 311**, an act confirming an exemption from registration for securities listed on the National Association of Securities Dealers Automated Quotation National Market System. Banks committee. Ought To Pass With Amendment. Senator Delahunty for the committee.

**SENATOR DELAHUNTY:** Essentially, this bill integrates the office of securities regulations policy regarding the NASDAQ quote board and will bring it in line with forty other states. It improves the efficiency of regulations while maintaining safety to the public. The amendment merely adds the Chicago Exchange Board.



**Amendment to HB 311**

Amend the title of the bill by replacing it with the following:

**AN ACT**

confirming an exemption from registration for securities listed on the National Association of Securities Dealers Automated Quotation National Market System or on the Chicago Board Options Exchange.

Amend the bill by replacing sections 1 and 2 with the following:

1 Statement of Purpose. The legislature after deliberation finds that the National Association of Securities Dealers Automated Quotation National Market System (NASDAQ/NMS) and the Chicago Board Options Exchange listed securities are already exempt from registration pursuant to RSA 421-B:17, I(f), and confirms their exempt status while according the NASDAQ/NMS and the Chicago Board Options Exchange the express recognition accorded to certain exchanges now named in RSA 421-B:17, I(f), thereby making explicit what the legislature after deliberation finds to have been implicit in the statute.

2 Securities; Exemption from Registration. Amend RSA 421-B:17, I(f) to read as follows:

(f) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Boston Stock Exchange, **the National Association of Securities Dealers Automated Quotation National Market System, the Chicago Board Options Exchange,** or the securities designated by the board of governors of the Federal Reserve system as "O.T.C. Margin Stocks," **if, in each case, quotations have been available and public trading has taken place for such class of security prior to the offer or sale of that security in reliance upon this exemption;** any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the securities listed in this subparagraph; **provided that the director may withdraw this exemption if the director determines, with respect to any security or class of securities sought to be sold in reliance upon this exemption, that the listing requirements or standards have been so changed, or so insufficiently applied, that the protection of investors contemplated and relied upon by the legislature in granting this exemption is no longer afforded, or is substantially reduced.**

## AMENDED ANALYSIS

This bill explicitly exempts from registration securities listed on the National Association of Securities Dealers Automated Quotation National Market System or on the Chicago Board Options Exchange. The director of the office of securities regulation may withdraw this exemption under certain circumstances.

Amendment Adopted.

Ordered To Third Reading.

**HB 441**, an act relative to the uniform limited offering exemption from securities registration and filing requirements. Banks committee. Ought To Pass. Senator Pressly for the committee.

**SENATOR PRESSLY:** This bill is also a request from the department. This is to bring into line the practices that are done nationwide relative to securities. It is an exemption that the department may implement.

**SENATOR NELSON:** Senator Pressly, on line 5 of the bill, it says may be adopted by the director by rules. Is that RSA 541-A, rule-making authority or does he have different rules? It is not specific and I wondered if you might mention why

**SENATOR PRESSLY:** My understanding is that is the intent. If you want to reference the legislation, I would be happy to ask for a recess and get an amendment. It is my understanding that in order for the director to make rules, it has to be explicit in the legislation that he is to do that. And that was the intent, that he be allowed if he wants to do that.

**SENATOR NELSON:** Senator Pressly, would you believe that they reference some other statute but usually when you see this it specifically states, according to RSA 541-A?

**SENATOR PRESSLY:** If you say so, Senator Nelson.

Recess.

Out of Recess.

Adopted.

Ordered To Third Reading.

**HB 113**, an act relative to weighted voting in school administrative unit affairs. Education committee. Ought To Pass. Senator Disnard for the committee.

**SENATOR DISNARD:** The Education committee recommends ought to pass. Presently there are 64 supervisory unions. Twenty five of these are single school districts. The other thirty nine are multi-district school districts, of which fourteen of these are not af-



fectured by the bill. Presently, on a weighted vote, on a supervisory union meeting that is comprised of more than one school district, the present law gives the weight to the school district based on the number of teachers. This has caused some concern within the supervisory unions and this is one way that might improve relationships within the SAU. It is interesting to note that in fourteen of the multi-school districts, it won't make any change in the overwhelming majority that they have. The other twenty-four, and I took eight school supervisory unions as an example, it does not change the weighted vote to hardly any extent. For example, Claremont, the largest, number 6, has eighty five percent, they would have eighty one under this one. In the Keene supervisory union, number 29, presently they have seventy six, it would change it to seventy one percent. You go through almost every one of the SAUs and it really doesn't change the weighted vote much. But it will change the relationship between the communities because the school districts want the weighted vote based on the number of students in residence.

SENATOR MCLANE: Does the formula have anything to do with assessed valuation per pupil? It just has to do with size of the community?

SENATOR DISNARD: It has to do with pupils in residence. It has nothing to do with the equalized valuation.

SENATOR MCLANE: So that a community like Warner, which is fairly big but has half the property values of a community like New London would get no advantage or disadvantage from this change?

SENATOR DISNARD: No, ma'am. Because nothing in this is based on the equalized valuation of the property assessed. However, in the cost of running an SAU, that would be taken into account.

SENATOR MCLANE: Okay. That is what I wanted to know.

Adopted.

Ordered To Third Reading.

**HB 271-FN**, an act to study the purchasing policies of the technical institute and the technical colleges. Education committee. Ought To Pass With Amendment. Senator Disnard for the committee.

SENATOR DISNARD: The Senate Education committee requests ought to pass. The only amendment that this does is adds the director of plant and property management to the study committee. The committee, the statute established by law that every two years must review the technical colleges, were amazed in every technical college and New Hampshire institute that the committee visited. The presi-

dents, the students, the supervisors were all concerned about the antiquated present method of purchasing, especially when a gift is to be received. So this is just a study committee to try to address those concerns. As an example, the antiquated system cost one of the technical colleges \$40,000 because they had to follow the state purchasing policy. It is not realistic. It is just a study committee.

### **Amendment to HB 271-FN**

Amend section 1 of the bill by inserting after paragraph VI the following new paragraph:

VII. The director of the division of plant and property management.

Amendment Adopted.

Ordered To Third Reading.

### **RECOMMITED**

**HB 341-FN**, an act relative to a foundation aid formula study committee and establishing a maximum equalization factor for the foundation aid formula. Education Department committee. Ought To Pass With Amendment. Senator Disnard for the committee.

SENATOR DISNARD: The committee requests recommit.

### **Amendment to HB 341-FN**

Amend the bill by replacing paragraph IV of section 1 of the bill with the following:

IV. One person from the state board of education, appointed by the chairman of the state board of education.

Amend RSA 198:29, II-a as inserted by section 4 of the bill by replacing it with the following:

II-a. Beginning with distribution for fiscal year 1992 in no case shall a district's equalization factor, as determined in paragraph II, be greater than 9. This provision shall not take effect in the Strafford school district until the 1993 distribution.

### **AMENDED ANALYSIS**

This bill establishes a committee to study the effectiveness of the foundation aid formula and to propose modifications. The committee shall submit its report to the governor, the executive council, the speaker of the house, the president of the senate, and to the chairpersons of the education committees of the house and senate on or before November 1, 1991.

This bill also establishes a maximum value for the equalization factor in the foundation aid formula.

Senator Disnard moved to recommit HB 341-FN.



Adopted.

HB 341-FN, IS RECOMMITTED to the Education Department.

**HB 361**, an act repealing certain obsolete education laws. Education committee. Ought To Pass. Senator Disnard for the committee.

SENATOR DISNARD: The committee requests ought to pass. All this bill does is address certain obsolete education laws. For example, the commissioner of education, under the present law, shall exercise general supervision of the board of examiners as worked within the office and refers to areas that are no longer under the department of education. The nurses, which this refers to, is now under the department of health and human services. Another one of these laws which we are requesting that be repealed address a higher education loan program. This program began in 1965, but it was the same as the federal government's similar program. It never got off the ground. There was never a single loan initiated under this, etc. They are obsolete laws.

Adopted.

Ordered To Third Reading.

**HB 431-FN**, an act relative to exempting certain purchases for severely emotionally disturbed children from state purchasing requirements. Education committee. Ought To Pass. Senator Disnard for the committee.

SENATOR DISNARD: This analysis is a little misleading. All this bill does is, for one year, exempt the department of education from sending out to bid some of the services that are already being instituted in this state by various providers. Because the year is so far along, it would be difficult to change the purchase proceedings. It is just one year, so the state education department can get their act in order and then go out to bid to some of these providers.

SENATOR NELSON: Senator Disnard, what does that mean in terms of the services?

SENATOR DISNARD: It will not harm the services. It will assist the services. Senator Nelson, some programs are established by the state, and these people were invited in by the state department of education to save the the state money and have programs within the state. Now there is concern that perhaps it should be open to the bidding process and it is going to take some rules and regulations established by the department of education. It is just for the remainder of this year.

Adopted.

Ordered To Third Reading.

### RECOMMIT

**HB 563-FN**, an act relative to the creation of trust funds and relative to unanticipated school funds. Education committee. Ought To Pass. Senator Disnard for the committee.

SENATOR DISNARD: The committee recommends recommit.

Senator Disnard moved to recommit HB 563-FN.

Adopted.

HB 563-FN, RECOMMITTED to the Education Department committee.

**HB 655-FN**, an act relative to statistical reports. Education Department committee. Ought To Pass. Senator Heath for the committee.

SENATOR HEATH: This is essentially just a tool to try to get timely and accurate reporting out of the schools so that the department of education can do their work. I don't believe there was any opposition. It is almost housekeeping.

SENATOR SHAHEEN: Senator Heath, do you know if part of the statistical information that they are going to be filing has to do with the number of high school dropouts?

SENATOR HEATH: I think it does. I think it has all of the average daily attendance material and dropouts would certainly fall into that category.

SENATOR SHAHEEN: It is my understanding that to date, we have not had any statewide information on dropouts.

SENATOR HEATH: I don't know that this bill will help that. I am hoping it will help all statistical reporting. But I have seen statistical information. I don't know if it came from the department. But I have seen very recent statistical reporting that reported an alarming dropout rate of ten percent. I don't know where those figures were derived from, but I presume someplace through the department of education.

SENATOR SHAHEEN: Just so I can clarify. There was no testimony at the hearing that this is, in fact, going to resolve that problem?

SENATOR HEATH: No. But I think it is implicit because it requires them to file it and the failure to file, and that is the stick behind the donkey, is that they will withhold state aid. And statisti-



cal reports would certainly include, it seems to me, dropout rates. In the average daily attendance information, you would derive the dropout rate. I don't know if they file those in a separate number, but they could be derived from the average daily records numbers. I yield to Senator Disnard for a more complete answer.

SENATOR DISNARD: I would like to add that the department of education at the request of the Senate Education committee, a year ago, is now changing their formula in form in order to have accurate data that they can compare with the other forty nine states and territories to actually determine and give information relating to dropout statistics. As an example, when you read in the paper that your community has a five percent dropout rate, forget it. Because presently, the department of education up until this year has been determining the dropout from the beginning of the school year to the end of the school year. It doesn't include those over the summer. In actuality, that dropout rate for that school district is between twenty and twenty four percent. So, yes, it is being addressed in this.

Adopted.

Ordered To Third Reading.

**SB 10-FN**, an act establishing a study committee on bonuses for veterans who served in the Persian Gulf. Finance committee. Ought To Pass With Amendment. Senator Hough for the committee.

SENATOR HOUGH: If you would turn to page six in your calendar, so we can address the Finance committee's amendment, you will see in the first line to the right it says to veterans who served during the Persian Gulf Crisis, that is a change from the bill as it was drafted. I believe you will find the language that says who served in the Persian Gulf. That change was at the request of General Price, who indicated that that language would be consistent with a national campaign ribbon for our military personnel. That has a specific time frame, from the commencement of the Persian Gulf activity - the 8th day of August - to its conclusion. That language would be consistent with other bonus activities that the state had supported historically. Further, there was a change adding a representative of the Governor's office, appointed by the Governor, and we changed the effective date to report as December 1, because the bill as it was drafted had an imminent date of June 1. Obviously that is not possible. That is the position of the committee's amendment. We support the legislation to establish a committee to study bonuses for the New Hampshire men and women who served during the Persian Gulf crisis.

SENATOR SHAHEEN: Senator Hough, I am a little confused by this. I don't understand who would pay those bonuses?

SENATOR HOUGH: That is to be determined. And at this point, we are simply studying it. The most recent bonus activity was the Vietnam era veterans, and the mechanism that was adopted by the Legislature in '72 to '74 was a bonding mechanism which allowed for a draw down and amortization of the whole, if you will. That was how that was handled. Quite frankly, the other major significant bonus was after the Second World War, and I don't recall, although I know that was discussed.

SENATOR SHAHEEN: The committee would look at the potential cost and how many veterans are involved and all of those issues as part of its study report?

SENATOR HOUGH: Absolutely. If a proposal was to be brought forth to establish a bonus for those men and women who served during the Persian Gulf crisis, number 1, you would have to establish a value per participant, if you will. And you would have to understand the potential liability that would be arrived at by multiplying those members times the value. I would tell you that in the 70's, when the Vietnam era veterans bonus was discussed, I was personally concerned as to the significance of \$100 as it would relate to helping veterans re-integrate into society compared to a figure in 1945 of \$100 when it would help buy a returning veteran a suit of clothes. A hundred dollars today, and nobody is saying it is \$100, is that a token effort or could there be some other means of recognition developed by this committee outside of a cash bonus. That would be a possible option and it may have more significance. In answer to your question, we don't have any money to begin with, but we also have to look at the contribution that these people have made over the last many months, regardless of the state's position today.

SENATOR PRESSLY: Is there any other Senator who has a direct relative serving in the Armed Forces besides myself? May I ask if anybody else here has a son or a daughter serving? Well, I have a son who is serving with the armed forces who is a Marine. My husband was a former Naval officer. We have served all over the world. To me, this is almost insulting. These people, they are not volunteers. They are people who are serving, they are doing a job. And we are proud of them. And we, as a people and a nation, honor them. They are doing what they should be doing and they want to be doing that. This is phony and fraudulent for the state of New Hampshire to now make ourselves feel good and say we are going to give these young people \$100 more. You don't understand what motivates people to serve in the Armed Forces. They don't serve for this type of phoni-ness. They serve for reasons that maybe you have to be involved or have someone involved to fully understand. I know this body has



meant so well, over the course of this, with all this feel good legislation. But I think it misses the whole point of patriotism and the whole point of why people are out there serving and what it means to serve.

SENATOR HUMPHREY: I commend our colleague for her statement. She is uniquely qualified to state it in the way she has. It is my thought as well, that any consideration of a bonus, especially such a meager amount, cheapens the sacrifice that these people have willingly made, and at great hardship. Perhaps the Senator would care to offer a substitute motion and just dispose of this thing today.

SENATOR JOHN KING: I rise in favor of the motion, simply because as Senator Hough said, it doesn't have to be a cash donation. It could be some kind of a plaque or something like that, even a letter of commendation. Whatever it may be, it doesn't have to be money. I don't think it is lowering anybody's esteem whatsoever.

SENATOR HOUGH: Senator Humphrey, I only ask you to clarify. My comments in regard to the Vietnam era veterans bonus and the World War II veterans bonus that had a specific dollar amount only indicated the history of bonuses. This does not address a specific amount, and bonus, to the extent that it has meaning and monetary value, could conceivably be one of the considerations of the committee. Other means of recognition also will be taken under advisement by the committee and hopefully the report could be meaningful. I ask you, do you recognize the intent.

SENATOR HUMPHREY: Yes, I thank the Senator for his clarification.

SENATOR MCLANE: I speak briefly and in favor of the study. I was the recipient partly of one of these bonuses. Any surprise money, no matter what amount, is oftentimes very welcome to young people. And after the Second World War, my husband got a huge bonus from the state of New Hampshire, which I believe was about \$260. It was doubled because he had been a prisoner of war. But I remember that money very clearly as one of the nicest things that happened in our young married life. I can't imagine that anyone would think that a surprise \$100 was an insult. So I would urge the committee to consider many things, perhaps a little free skiing and free entrance to our parks would not cost the state any money and given these fiscal times, maybe that would be enough of an award.

#### **Amendment to SB 10-FN**

Amend the title of the bill by replacing it with the following:

## AN ACT

establishing a study committee on bonuses for veterans  
who served during the Persian Gulf crisis.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study the payment of bonuses to veterans who served during the Persian Gulf crisis. The committee shall consist of the following members: one senator appointed by the senate president and one house member appointed by the speaker of the house, both of whom shall be veterans; one representative of the governor's office, appointed by the governor; one public member appointed by the governor; the director of the veterans council or designee; and the adjutant general or designee. The committee shall elect a chairman from among its members. The committee shall submit a report on its findings and recommendations, including any recommendations for legislation, to the senate president, the speaker of the house, and the governor on or before December 1, 1991.

## AMENDED ANALYSIS

This bill establishes a committee to study the payment of bonuses to veterans who served during the Persian Gulf crisis.

Amendment Adopted.

Ordered To Third Reading.

**HB 767-FN**, an act relative to access to group health insurance policies. Insurance committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: This bill seeks to place businesses in New Hampshire under the same requirements as COBRA, the consolidated omnibus budget reconciliation act, which was passed nationally in 1985. Currently, employers are required to allow employees to stay on group health insurance at their own cost for a period of 39 weeks. This bill would have raised this number to 78 weeks. There was concern on the part of the committee that this would have an adverse effect on smaller businesses having smaller group health plans. As a result, and as sort of a favor to the House, the committee voted to amend the bill to strike out everything and permit the House Commerce and Consumer Affairs committee to study the bill over the summer and if necessary, come back with further recommendations next year. The committee urges your adoption of the committee report of ought to pass as amended.



**Amendment to HB 767-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT**

to study access to group health insurance policies.

Amend the bill by replacing all after the enacting clause with the following:

1 Study Required. The house commerce, small business and consumer affairs committee shall study the issue of extending the time frame within which a person, or that person's surviving spouse or dependent, who has become ineligible to participate in a group health insurance plan due to death or any other reason may continue to participate in the plan at the group rate. The committee shall submit a report of its findings together with recommendations for legislation to the speaker of the house and the president of the senate no later than November 1, 1991.

2 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill requires the house commerce, small business and consumer affairs committee to study the issue of extending the time limits which apply to certain persons and their participation in group health insurance plans after their eligibility for the plan expires.

Amendment Adopted.

Ordered To Third Reading.

**HB 133**, an act relative to the right to know law. Judiciary committee. Ought To Pass With Amendment. Senator Nelson for the committee.

SENATOR NELSON: This bill deletes the authority of a body or agency to hold an executive session solely for deliberative purposes. The other thing you may want to note is that the reference to executive session is changed to non-public session. I also would bring to your attention that we amended the bill at the end because there was some concern about the words minutes and records. So if you look on page 7 of the journal, you will see the change we made. We just added in the second line minutes and decisions to make it perfectly clear that both would be available.

**Amendment to HB 133-FN**

Amend RSA 91-A:3, III as inserted by section 3 of the bill by replacing it with the following:

III. Minutes of proceedings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the body or agency itself or render the proposed action ineffective. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

Amendment Adopted.

Ordered To Third Reading.

**HB 307-FN**, an act establishing a committee to review New Hampshire's bankruptcy laws. Judiciary committee. Ought To Pass With Amendment. Senator Podles for the committee.

SENATOR PODLES: The amendment on page 7 is now the bill to HB 307. It established a committee to review the New Hampshire bankruptcy laws. The laws are archaic and in need of updating. It would address both personal and business bankruptcies. The committee recommends ought to pass.

SENATOR ST. JEAN: Senator Podles, I was looking through the members of the committee and you have one member of the New Hampshire Bar Association, appointed by the New Hampshire Bar Association. Wouldn't it make you feel more comfortable, if it was an individual who specialized in bankruptcy law versus just somebody that the Bar Association appoints. Because they may well appoint somebody who has no speciality in bankruptcy.

SENATOR PODLES: Senator, you have a point there. We just accepted what the House gave us. If you would like to amend the bill, we can recommit it and we can add something like that to the bill.

SENATOR ST. JEAN: I would feel more comfortable with that.

Senator Podles moved to recommit HB 307-FN.

Recess.

Out of Recess.

Senator Podles withdrew the motion to recommit.

#### **Amendment to HB 307-FN**

Amend the bill by replacing all after the enacting clause with the following:



1 Study Committee on Bankruptcy Laws Established. There is hereby established a committee to review the New Hampshire bankruptcy laws. The committee members shall consist of the following members:

I. The chairman of the house commerce, small business and consumer affairs committee, or designee.

II. The chairman of the senate banks committee, or designee.

III. The bank commissioner, or designee.

IV. One member of the New Hampshire Banking Association, appointed by the governor.

V. One member from the Small Business Administration, appointed by the governor.

VI. One member of the New Hampshire Bar, appointed by the New Hampshire Bar Association.

VII. One member from the judicial council, appointed by the governor.

VIII. The attorney general, or designee.

2 Meetings; Chair; Compensation. Appointments to the committee shall be made within 30 days of the effective date of this act, and the first meeting of the committee shall be held within 60 days of the effective date of this act. The committee shall elect a chair at its first meeting. Legislative members of the committee shall receive mileage at the legislative rate.

3 Duties; Report.

I. The committee shall consider, but not be limited to, the following:

(a) Assessing the fairness and effectiveness of New Hampshire law relating to the attachment and execution against property.

(b) Recommendations necessary to improve upon New Hampshire's law relating to property and exemptions.

II. The committee shall report its findings and recommendations to the governor and his council, the senate president, and the speaker of the house on or before November 1, 1991.

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a committee to review New Hampshire's bankruptcy laws. The committee shall report its findings and recommendations to the governor and council, the senate president and the speaker of the house on or before November 1, 1991.

Senator Podles moved to have HB 307-FN, Laid On The Table.

Adopted.

HB 307-FN, IS LAID ON THE TABLE.

**HB 363-FN**, an act relative to criminal record checks and fees charged for criminal record checks. Judiciary committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: What this bill does, is basically right now, if you want to get a record check on somebody in the state, you have to sometimes go to several different places in the state to get that. This would bring it under one roof. We changed it to make it require a written authorization. If you wanted to get it for somebody else, it would have to be notarized, so it would be a sworn statement that they want that information given out. Also, there is a fee charged for it, so that it would not be an expense to the state. So it would be a help to somebody who wanted to get their own record or somebody who wanted it for job employment or what have you, that application would be helpful. So we urge you to pass it.

#### **Amendment to HB 363-FN**

Amend RSA 106-B:14, I as inserted by section 2 of the bill by replacing it with the following:

I. With the approval of the commissioner of safety, the director shall adopt rules under RSA 541-A as may be necessary to secure records and other information relative to persons who have been convicted of a felony, **or a misdemeanor** [or an attempt to commit a felony] within the state, or who are known to be habitual criminals, or who have been placed under arrest in criminal proceedings. Such records and information shall not be open to the inspection of any person except those who may be authorized to inspect the same by the director; as follows:

(a) **Records and information concerning arrest not leading to conviction shall not be disclosed except to law enforcement personnel or to the individual requesting his own record.**

(b) **Any individual may request and receive a copy of his own criminal conviction and arrest records and related information.**

(c) **Any individual or any public or private agency may request and receive a copy of the criminal conviction record of another who has provided authorization in writing, duly signed and notarized, explicitly allowing the requestor to receive such information.**

The clerks of the superior and municipal courts, or if there is no clerk the justice thereof, sheriffs, deputy sheriffs, police officers, and superintendents of the county departments of corrections shall secure and forward to the director all such



information as he may direct relative to persons brought before said courts or arrested or in the custody of such officers. Any person violating the provisions of this section or any rules adopted under RSA 541-A shall be guilty of a violation, for each offense.

### AMENDED ANALYSIS

This bill requires the director of the division of state police to maintain records of persons who have been convicted of misdemeanors. The bill authorizes the division to release criminal records to any individual requesting his own criminal record or any person who offers a release form of an individual's criminal record signed by that individual. The bill also authorizes the division to charge fees to individuals for criminal record checks.

Amendment Adopted.

Ordered To Third Reading.

**HB 381-FN-A**, an act relative to the recovery of legal fees incurred by the state. Judiciary committee. Ought To Pass. Senator Russman for the committee.

Adopted.

Ordered To Third Reading.

**HB 406**, an act relative to modification of support orders. Judiciary committee. Ought To Pass With Amendment. Senator Nelson for the committee.

SENATOR NELSON: HB 406 is really in the journal. What the committee did was take it out of 458:32-A and put it in 458:C. Basically what it does is allow an individual or obligor and obligee to go back to the courts three years after the entry from the last order for support without the need to show substantial changes of circumstances. That is the major change here, without a need for showing a change, but you can only go in after three years.

SENATOR HEATH: Senator Nelson, does this do anything to prevent the constant going back during the three years, on the premise that they show a change of circumstances?

SENATOR NELSON: I don't think I quite grasped the question.

SENATOR HEATH: Particularly in sales, people in sales who are the non-custodial parent who are supporting, they have fluctuations from month to month and I have seen situations where they have used the fluctuation of commissions to go in month after month as a harassment tactic, rather than a sincere need for change.

SENATOR NELSON: Thank you. That question was raised by the committee and it really doesn't allow people to come in and out. They really don't anticipate a need. You can't get back in. If you have a support order, you have to wait three years, unless there is a substantial change in the circumstances. So it has to be substantial.

SENATOR HEATH: Is the substantial change language new in this bill?

SENATOR NELSON: The language is that it shall not prohibit the obligee or obligor from going in. The whole thing is new. It is a brand new section. We wanted to make sure that you weren't prohibited by a substantial change. Also it is going to make it easier to comply with federal law.

### **Amendment to HB 406**

Amend the bill by replacing section 1 with the following:

1 New Section; Modification of Order. Amend RSA 458-C by inserting after section 6 the following new section:

458-C:7 Modification of Order. The obligor or obligee may apply to the court or, when the division of human services has issued a legal order of support pursuant to RSA 161-C, to the division, whichever issued the existing order, for modification of such order 3 years after the entry of the last order for support, without the need to show a substantial change of circumstances. This section shall not prohibit the obligor or obligee from applying at any time for a modification based on substantial change of circumstances.

### **AMENDED ANALYSIS**

This bill modifies the ability of an obligor or obligee to petition for modification of a support order. An obligor or obligee may petition the court for modification of the child support order 3 years after the entry of the last order for support without the need to show a substantial change of circumstances.

The bill does not prohibit the obligor or obligee from petitioning for modification at any time if there is a substantial change of circumstances.

Amendment Adopted.

Ordered To Third Reading.

**HB 450**, an act relative to claims to dower and curtesy. Judiciary committee. Ought To Pass. Senator Podles for the committee.

SENATOR PODLES: HB 450 would require anyone who has dower and curtesy rights, whose spouse died before 1971 and have rights that they did not claim, must now come and make such a claim prior to December 31, 1991. The Legislature eliminated dower and cur-



tesy rights, which are marital property rights, in 1971 and that is twenty years ago. A petition to quiet the title in superior court would be successful because we have a twenty year statute of limitation. However, that requires court time and it is an expense to the consumer. So actually, it is not economically practical. After all the research and work to title, it often does not produce any information anyway. So HB 450 eliminates the need for such court action to remove the possible dower and curtesy rights. The committee recommends ought to pass.

SENATOR SHAHEEN: Senator Podles, can you tell me what curtesy or dower refers to?

SENATOR PODLES: Dower is the right of a woman in her husband's estate and curtesy is the contrast, it is just the opposite.

Adopted.

Ordered To Third Reading.

**HB 482-FN**, an act relative to temporary guardianships. Judiciary committee. Inexpedient To Legislate. Senator Podles for the committee.

SENATOR PODLES: HB 482 requires a hearing on a temporary guardianship, if the ward is receiving treatment in a hospital. The bill is unnecessary, since they can do this now and the committee recommends inexpedient.

Committee Report Adopted.

**HB 717-FN**, an act permitting the designation by a vehicle owner of a vehicle's recipient upon the owner's death. Judiciary committee. Inexpedient To Legislate. Senator Russman for the committee.

SENATOR RUSSMAN: This bill essentially allowed someone to designate whomever they want to get their motor vehicle upon their death. There is a statute already in force and allows it to automatically go to the spouse. So if you have a car in your name and you pass away, it can go to your spouse to provide a family vehicle. The problem with the bill is that it does nothing to address the issue of bills or debts that the estate may have. In other words, if you had an expensive car or not so expensive car, and you designate it to somebody, conceivably you could end up owing your doctor and the hospital and other people money and even telephone and electric bills. Things that you would normally have in an estate. You would be able to circumvent that and the committee felt that really wasn't the appropriate way to do it. If you wanted someone to get it, you could make a will or make it in joint tenancy with a person on the title itself. So we urge you to vote inexpedient to legislate.

Committee Report Adopted.

**HB 275-FN-A**, an act establishing a permanent heritage collections committee and a New Hampshire heritage trust fund, continually appropriating funds in the trust fund to the committee, and making an appropriation therefor. Public Affairs committee. Ought To Pass. Senator Podles for the committee.

**SENATOR PODLES:** HB 275 establishes a permanent heritage committee of eleven members with authority over historical, cultural or artistic value. It also establishes a heritage trust fund for the purpose of acquiring, maintaining, exhibiting and conserving state owned objects, and at the same time, repeals a similar fund established in 1990. The sum of \$1.00 is appropriated to the trust fund. The committee recommends ought to pass.

Adopted.

Ordered To Third Reading.

**HB 447**, an act relative to bulk commodities. Public Affairs. Ought To Pass With Amendment. Senator Bass for the committee.

#### **Amendment to HB 447**

Amend RSA 438:32-a, I as inserted by section 1 of the bill by replacing it with the following:

I. When a vehicle is used to render or deliver commodities in bulk or provide services in terms of weight units, the vendor of the bulk commodities or services shall include with the original invoice to the purchaser a duplicate copy of the weight ticket that represents the actual weighing of the services or bulk commodities; provided however, that if the purchaser himself carries away his purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the net weight of the commodity or service.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect 60 days after its passage.

Amendment Adopted.

Ordered To Third Reading.

**HB 514-FN**, an act relative to special town meetings. Public Affairs committee. Ought To Pass. Senator Cohen for the committee.

**SENATOR COHEN:** This bill came in at the request of the New Hampshire municipal association. It just basically makes it easier for the selectmen to file a petition and warrant articles to the de-



partment of revenue administration. It is basically a housekeeping bill. Two people spoke in favor of it and nobody spoke against. We think it ought to pass.

Adopted.

Ordered To Third Reading.

**HCR 12**, an act concerning the use of automatic dialing devices for telephone solicitation purposes. Public Affairs committee. Ought To Pass. Senator Podles for the committee.

**SENATOR PODLES:** HCR 12 urges Congress to either develop unified standards or prohibit entirely, the use of automatic dialing devices used for solicitation purposes. We were told in committee that most of these calls originate out of state and there is a problem of disconnect. When the person hangs up, you can't use your phone for quite a while and in some cases, business messages are erased. Since it is an interstate problem, we have no control over these people, even if we had legislation. HCR 12 urges the federal government to do something about it. The committee recommends ought to pass.

Adopted.

Ordered To Third Reading.

**HB 688**, an act relative to the Mount Washington Regional and the Berlin Municipal Airports. Transportation committee. Ought To Pass With Amendment. Senator Oleson for the committee.

**SENATOR OLESON:** What the amendment requires, to an extent, as the money this appropriated, the \$100,000, if there are federal funds available that they will pay 90 percent, the locals will pay 5 percent and the state's 5 percent will come out of this fund. If they are not available, the so-called locals will pay 50 percent and the other 50 percent will come out of the fund. To make it simple, this money can be spent as usual and has to have the approval of the council. I can talk many hours on the subject of what the benefits might be, but there is just one point that I would like to make. I am on a council that took in New England and the maritimes and Quebec and New York, and what the council is about is to number one, protect our natural resources in the state of New Hampshire which happens to be our forests. And one of the things, we were subject and we were asked and begged to maintain our airfields in New Hampshire, throughout the state, for the simple reason that from time to time, we send people out of our own forestry department to fight forest fires as far away as California and Montana and Texas. This council would see to it that we would get the same benefits in

case we had a big smokey, which we are going to have sooner or later, that our airfields be in shape so that we can land heavy equipment and the people necessary to protect our number one natural resource in New Hampshire. Just for that one reason, without any other reason, would be enough to see that we maintain our airfields, not just in Whitefield and Berlin, but also in Lebanon and Scowhaven.

### **Amendment to HB 688**

Amend the bill by replacing section 1 with the following:

1 Mount Washington Regional Airport; Whitefield; Berlin Municipal Airport. 1989, 367:1, XII, A, 2 is repealed and reenacted to read as follows:

2.(a) Berlin Municipal Airport, Berlin - reconstruction of hazard beacons and updating of Berlin's airport master plan. \$100,000.

(b) Mount Washington Regional Airport - Whitefield - reconstruct stub taxiway and parking ramp. \$100,000.

(c) If either one or both of the projects listed in subparagraphs (a) and (b) become federally funded, the department of transportation shall pay 5 percent, and the political subdivisions involved shall pay a combined total of 5 percent, of the cost of such project or projects. If no federal funds are available for either one or both of the projects listed in subparagraphs (a) and (b), the department of transportation shall pay 50 percent, and the political subdivisions involved shall pay a combined total of 50 percent, of the cost of such project or projects.

### **AMENDED ANALYSIS**

This bill redesignates the use of \$200,000 which was appropriated in 1989, but not spent, to the department of transportation for the Mount Washington Regional Airport in Whitefield and for the Berlin Municipal Airport. The bill specifies how the costs for these projects are to be divided among the federal, state, and local governments.

The bill allows Berlin to reconstruct the hazard beacons necessary for night operations at the airport, and allows the Mount Washington Regional Airport to reconstruct the ramp and taxiway stub for safety purposes.

This bill was requested by the department of transportation, division of aeronautics.

Amendment Adopted.

Ordered To Third Reading.

**HB 727-FN**, an act relative to DWI testing, motor vehicle records fees, and commercial driver licenses. Transportation committee. Ought To Pass With Amendment. Senator Heath for the committee.



SENATOR OLESON: This bill, more or less, has two prongs to it. It was asked by the department of safety and in one sense it was to tighten up the laws of the people who might be DWIs. It might give the department more muscle in this direction. I know each one of us is disturbed about what is going on, on the highways as far as the DWIs are concerned. So this should be a concern of yours, to see that the people up front, who have to enforce the DWI can be given more authority and more muscle to do what I know everyone of us here desires. The other prong is that when insurance companies ask for information from the department of safety to issue certain insurance policies, licenses, or whatever, they are charged a fee of \$7.00 to get this information, \$5.00 of which is to see that the department covers their expenses and \$2.00 which will go into the general fund, which will help to alleviate our financial situation which we are in at this time. I do urge that people vote in favor of this legislation.

### **Amendment to HB 727-FN**

Amend the bill by replacing all after section 2 with the following:

3 Refusal to Consent to Tests. RSA 263:96, III is repealed and reenacted to read as follows:

III.(a) Upon the first refusal of any person to submit to a test or tests as administered by a law enforcement officer for the purposes of determining the person's alcohol concentration or the presence of other drugs, the director shall revoke his commercial license for a period of not less than one year.

(b) If the person has a prior refusal under subparagraph III(a) then, upon the second or subsequent refusal of such person to submit to a test or tests as administered by a law enforcement officer for the purposes of determining the person's alcohol concentration or the presence of other drugs, the director shall revoke his commercial license for a period of not less than 10 years.

4 Fee for Motor Vehicle Records. Amend RSA 260:15 to read as follows:

260:15 Copies of Certificates.

I. The department may issue a certified copy of any certificate of registration, or of any license to drive motor vehicles which may have been lost or mutilated, upon the written request of the person entitled thereto and the payment of the prescribed fee, and such certified copy shall have the same force and effect as the original.

II. The department may issue a copy of any motor vehicle record upon the request of an insurance company and payment by the insurance company of a fee of \$7, \$2 of which shall be deposited in the general fund.

5 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill:

(a) Authorizes the department of safety to charge a \$7 fee for copies of motor vehicle records provided to insurance companies, \$2 of which to be deposited in the general fund.

(b) Deletes certain restrictions on commercial motor vehicle driving.

(c) Deletes the requirement that any person seeking a temporary 20-day registration from the division of motor vehicles possess a sales receipt for the vehicle which is dated the same day or one day after issuance of the registration.

(d) Provides for a 10-year commercial license revocation for a second or subsequent refusal of a person to submit to a blood alcohol concentration test.

Amendment Adopted.

Referred To Finance(Rule #24).

**HB 158**, an act relative to highway safety for riders and drivers of animals. Transportation committee. Ought To Pass With Amendment. Senator Pressly for the committee.

SENATOR PRESSLY: The committee is offering an amendment that we hope you will approve of.

Recess.

Out of Recess.

Committee amendment adopted.

### Amendment to HB 158

Amend the title of the bill by replacing it with the following:

### AN ACT

relative to dogs as nuisances.

Amend the bill by replacing all after section 1 with the following:

2 Dogs as Nuisances; Reference Added. Amend RSA 466:31, II(e) to read as follows:

(e) If it runs after, or chases bicycles, motor vehicles, motorcycles, **animals or animal-drawn vehicles as defined in RSA 265:5** or other vehicles being driven, pulled or pushed on the streets, highways, or public ways;



3 Effective Date. This act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill includes dogs that run after or chase animals or animal-drawn vehicles as nuisances.

Amendment Adopted.

SENATOR ROBERGE: I would like to further amend HB 158 to insert in the law, relative to animals being restrained in the back of trucks. Very frequently we have seen, particularly dogs, not restrained in the back of pick up trucks sliding around, having difficulty keeping their balance. And as we all know, animals like to have the cold air in their ears and they tend to lean over the edge and they think this is wonderful, but it isn't safe. Very frequently, they either fall out or jump out, in which case they are a hazard to other motorists on the road who are caught trying to avoid this animal. If they survive the injury of the fall out of the truck without getting hit by another vehicle, the animal is very fortunate and the driver takes the chance of hitting, or hitting the animal, and finds it to be a very traumatic but unavoidable experience. So I urge you to pass this amendment that you have before you.

Senator Roberge offered a floor amendment.

### Floor Amendment to HB 158

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to dogs as nuisances and to the transportation  
of animals in open trucks.

Amend the bill by replacing section 3 with the following:

3 Statement of Intent. It is the intent of section 4 of this act to protect animals from jumping or falling from open trucks and to shield them from extreme or inclement weather. The general court wishes to accomplish these goals by requiring that any truck transporting animals be equipped provide adequate protection.

4 Transportation of Animals. Amend RSA 644 by inserting after section 8-d the following new section:

644:8-e Transportation of Animals.

I. To assure the safety of animals, no person shall transport any animal in the back of an open truck, unless such animal is enclosed in a secured to the vehicle cage or unless the animal is secured in such a manner to maintain its entire body within the confines of the

truck. "Open truck" means any truck lacking or having a limited top, back or sides protecting the animal from the elements and preventing the animal from being injured. The truck shall provide the animal adequate ventilation.

II. Any person who violates the provisions of paragraph I shall be guilty of a violation.

5 Effective Date.

I. Sections 3 and 4 of this act shall take effect January 1, 1992.

II. The remainder of this act shall take effect July 1, 1991.

### AMENDED ANALYSIS

This bill includes dogs that run after or chase animals or animal-drawn vehicles as nuisances.

This bill also prohibits the transportation of any animal in an open truck unless such animal is enclosed in a cage secured to the vehicle or unless the animal is secured in such a manner to maintain its body within the confines of the truck.

Floor Amendment Adopted.

Ordered To Third Reading.

### TAKEN OFF THE TABLE

Senator Podles moved to Have HB 307-FN, TAKEN OFF THE TABLE.

Adopted.

**HB 307-FN**, an act establishing a committee to review New Hampshire's bankruptcy laws. Judiciary committee. Ought To Pass With Amendment. Senator Podles for the committee.

### Amendment to HB 307-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Study Committee on Bankruptcy Laws Established. There is hereby established a committee to review the New Hampshire bankruptcy laws. The committee members shall consist of the following members:

I. The chairman of the house commerce, small business and consumer affairs committee, or designee.

II. The chairman of the senate banks committee, or designee.

III. The bank commissioner, or designee.

IV. One member of the New Hampshire Banking Association, appointed by the governor.

V. One member from the Small Business Administration, appointed by the governor.



VI. One member of the New Hampshire Bar, appointed by the New Hampshire Bar Association.

VII. One member from the judicial council, appointed by the governor.

VIII. The attorney general, or designee.

2 Meetings; Chair; Compensation. Appointments to the committee shall be made within 30 days of the effective date of this act, and the first meeting of the committee shall be held within 60 days of the effective date of this act. The committee shall elect a chair at its first meeting. Legislative members of the committee shall receive mileage at the legislative rate.

3 Duties; Report.

I. The committee shall consider, but not be limited to, the following:

(a) Assessing the fairness and effectiveness of New Hampshire law relating to the attachment and execution against property.

(b) Recommendations necessary to improve upon New Hampshire's law relating to property and exemptions.

II. The committee shall report its findings and recommendations to the governor and his council, the senate president, and the speaker of the house on or before November 1, 1991.

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a committee to review New Hampshire's bankruptcy laws. The committee shall report its findings and recommendations to the governor and council, the senate president and the speaker of the house on or before November 1, 1991.

Amendment Adopted.

SENATOR PODLES: I would like to further amend HB 307 by adding just the words after one member of the New Hampshire Bar appointed by the New Hampshire Bar Association, "who shall have expertise in the area of bankruptcy law". I urge passage of this amendment. It is very important to that bill.

Senator Podles offered a floor amendment.

### Floor Amendment to HB 307-FN

Amend paragraph IV of section 1 of the bill by replacing it with the following:

IV. One member of the New Hampshire Bankers Association, appointed by the governor.

Amend paragraph VI of section 1 of the bill by replacing it with the following:

VI. One member of the New Hampshire Bar, appointed by the New Hampshire Bar Association, who shall have expertise in the area of bankruptcy law.

Floor Amendment Adopted.

Ordered To Third Reading.

### COMMITTEE OF CONFERENCE REPORT ON HB 428-FN

The committee of conference to which was referred House Bill 428-FN, An Act relative to the enforcement and administration of state taxes by the department of revenue administration having considered the same, report the same with the following recommendations:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 21-J:29, II(b) as inserted by section 6 of the bill by replacing it with the following:

(b) In the case of a willful attempt in any manner to evade any tax administered by the department the tax may be assessed at any time.

Amend RSA 21-J:33-c, II(a) as inserted by section 10 of the bill by replacing it with the following:

(a) The term "procures" shall mean ordering or causing a subordinate to do an act.

*Conferees on the Part  
of the Senate*

Sen. McLane  
Sen. Hollingworth  
Sen. Russman

*Conferees on the Part  
of the House*

Rep. Sytek,  
Rep. Crutchley  
Rep. LaMar

Senator McLane moved to adopt the Committee of Conference Report.

Adopted.

### ANNOUNCEMENTS

#### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third



time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Thursday, May 9, 1991 at 1:00 p.m.

Adopted.

Senator Disnard moved that the Senator now adjourn until Thursday, May 9, 1991 at 1:00 p.m.

### LATE SESSION

**SB 10-FN**, establishing a study committee on bonuses for veterans who served during the Persian Gulf crisis.

**HB 113**, an act relative to weighted voting in school administrative unit affairs.

**HB 133**, an act relative to the right to know law.

**HB 158**, relative to dogs as nuisances and to the transportation of animals in open trucks.

**HB 187**, an act including agents of investment advisors in the definition of "agent" under the securities laws.

**HB 271-FN**, an act to study the purchasing policies of the technical institute and the technical colleges.

**HB 275-FN-A**, an act establishing a permanent heritage collections committee and a New Hampshire heritage trust fund, continually appropriating funds in the trust fund to the committee, and making an appropriation therefor.

**HB 307-FN**, an act establishing a committee to review New Hampshire's bankruptcy laws

**HB 311**, confirming an exemption from registration for securities listed on the National Association of Securities Dealers Automated Quotation National Market System or on the Chicago Board Options Exchange.

**HB 361**, an act repealing certain obsolete education laws.

**HB 363-FN**, an act relative to criminal record checks and fees charged for criminal record checks.

**HB 381-FN-A**, an act relative to the recovery of legal fees incurred by the state.

**HB 406**, an act relative to modification of support orders.

**HB 431-FN**, an act relative to exempting certain purchases for severely emotionally disturbed children from state purchasing requirements.

**HB 441**, an act relative to the uniform limited offering exemption from securities registration and filing requirements.

**HB 447**, an act relative to bulk commodities.

**HB 450**, an act relative to claims to dower and curtesy.

**HB 514-FN**, an act relative to special town meetings.

**HB 655-FN**, an act relative to statistical reports.

**HB 688**, an act relative to the Mount Washington Regional and the Berlin Municipal Airports.

**HB 767-FN**, to study access to group health insurance policies.

**HCR 12**, an act concerning the use of automatic dialing devices for telephone solicitation purposes.

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

**HB 305**, relative to the meaning of the term "charitable" for purposes of real estate tax exemptions.

**HB 310**, increasing the hazardous waste transporter vehicle registration fee.

**HB 340**, relative to compliance with enabling legislation.

**HB 638**, relative to credit for reinsurance.

**HB 673**, reinstating the charter of Capitol Leasing Company, Inc., and of Hagen and Spegiali, Inc.

**HB 723**, relative to Concord - state cooperation.

**HB 743**, relative to listing representatives to the general court on the ballot.

**SB 13**, relative to transferring funds between and among line items in the postsecondary technical education department.

**SB 24**, relative to revising the administrative procedure act.

**SB 82**, relative to powers of directors, officers, and trustees of health service corporations.

**SB 109**, relative to the time for holding the 1991 Newmarket town meeting.



**SB 178**, transferring certain account balances to the joint legislative account.

**CACR 11**, a 12-person jury is required in capital cases and when imprisonment may be more than one year, but that other juries shall consist of 6 persons.

Adopted.

Senator Disnard moved to adjourn.

Adopted.

Adjournment.

*May 9, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, we thank you for our mothers who brought us into this world and gave us what they could, and hoped that we would reach their expectations which in a way was most precious to them. It has been said that the hand that rocks the cradle rules the world. A lot of changes now. Lord, bless all mothers and especially those here today. Good health to Senator Fraser. Amen.*

Senator Dupont led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### COMMITTEE REPORTS

**HB 329-FN-A**, an act relative to the business corporations act and appropriating funds for certain administrative expenses to be reimbursed by fees. Economic Development committee. Ought To Pass. Senator Bass for the committee.

**SENATOR BASS:** Anybody who has called the corporate division in the Secretary of State's office recently, or within the last few years, to obtain information on registration of a corporation or other such data has certainly learned what I have learned - which is it is very hard to get that information and the mechanisms are very antiquated in that area. The corporate division has come up with this proposal which basically would allow them to collect fees for providing copies and so forth to corporations and use those funds to update

their system, install a computer, allow modems to be attached in other parts of the state, so that corporate information would be much more readily available to citizens of this state. It won't cost the state anything. The users who want this piece of legislation are the ones who will be paying for it. I hope you will support the committee position of ought to pass.

Adopted.

Ordered To Third Reading.

**HB 442-FN**, an act authorizing the commissioner of agriculture to establish minimum price rates for small producers. Environment committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN:** This is kind of a parent bill that allows the price of milk to be set to coincide with states around us and give protection for those farms that are passing away quickly in terms of keeping the price stable in terms of raw milk. No one was opposed to the bill and we would ask that the body approve it.

**SENATOR HEATH:** Senator Russman, are we going back to the days of price control that we struggled in the 50's to get out of?

**SENATOR RUSSMAN:** That is udderly correct.

**SENATOR HEATH:** I know you want to milk the humor out of this one and you want the industry to get the cream of the crop, but seriously, isn't it the antithesis of the free enterprise system to start setting price controls? They never work. They always screw up the free market place. No matter, how do you as a free market American, free enterprise person, defend that kind of thing?

**SENATOR RUSSMAN:** This affects farms that produced in excess of 20 quarts a day, so for the very small people it really doesn't. But the problem is the stability of the production and the distribution system requires some stability on the pricing. I tend to agree with you in most instances. But what has been happening is other states around us and the federal government have manipulated it so much that New Hampshire continues to fall behind. The Department of Agriculture together with the farmers themselves and the farm bureau were very strong in support of this act.

**SENATOR HEATH:** Always the industry that is benefiting from it is in support of minimum prices, but we have a failing construction industry and failing real estate industry in this state and we are not making minimum price supports there. And it impacts a lot more people than this. Do you think we should go in a general minimum price control thing or just selected industries?



SENATOR RUSSMAN: I think when it comes to something as basic as milk, I think we have to do that so we don't get into a continuing decline any more than it already is, in terms of the dairy farmers.

SENATOR HEATH: There is no demonstrable shortage of milk and milk has not reached astronomical prices to say the least. I say that knowing that we don't have any problem and we sell milk. Where is the need for this price control?

SENATOR RUSSMAN: In terms of seeing that the few farms that we have left don't continue in a decline and that is what the concern of the commissioner was and the people who testified. In an effort to see the farms in New Hampshire that we have continue. If we are going to stay in the dairy business, we ought to do that to protect the dairy farmers. So that is, in essence, what it is.

SENATOR HEATH: Senator Russman, business is going to decline when the economic circumstances aren't there to support them. Wouldn't this tell us that New Hampshire is not going to be a dairy farm state and maybe they ought to go into sugar beets or some substitute, if they can't make it with dairy farming, rather than build a price support in a phony economy.

SENATOR RUSSMAN: I don't want to beat a dead horse, of course, but at the same time, I think that if New Hampshire wants to maintain the heritage that it has had as a dairy farming state to a degree, I don't think we have much choice in passing this. If you chose to vote the other way, I think it would contribute to further decline of that segment of the agriculture that we have here in our state.

SENATOR HEATH: Senator Russman, if we build this price support, what stops out-of-staters from coming in and underselling?

SENATOR RUSSMAN: I think it has to do with what is brought into the state of New Hampshire, as far as what the sales would be. At least that is my understanding of what the commissioner told us. There may be language here that I could pull out for you. After he consults with the Agriculture Advisory Board, depending upon what the federal milk board covering the state would be that would come into place. It also orders him to establish a price graded on the average price established for comparable class of grades in the form of raw milk in the contiguous states. I think in working with those other states, it is not going to be a situation where you are going to have undercuts from other states.

SENATOR MCLANE: Senator Russman, I have great respect for the Commissioner of Agriculture, but I also realize that part of what he is trying to do in bringing us into line with the surrounding states

on milk is preserving a way of life for farmers and open space and the beauty of farms in New Hampshire that is very important for a lot of other reasons besides the milk that comes out of the cows. Isn't that true?

SENATOR RUSSMAN: I would tend to concur with that.

SENATOR SHAHEEN: I think my question has been answered very well, but I wanted to know if this legislation will, in fact, help us preserve the dairy farms that have been so much a part of New Hampshire's history?

SENATOR RUSSMAN: I think you are absolutely correct. If we are going to stay in the dairy business as a state, and have that part of our industry, then we need to support this type of legislation.

SENATOR COLANTUONO: Where is the provision that limits this to small producers?

SENATOR RUSSMAN: Small producers are exempted from this. So that the person who makes 20 quarts a day or less is exempted from this, so if they want to potentially sell it in the neighborhood without the benefit of homogenization and what not, they can do so and there is no price question.

SENATOR COLANTUONO: So the amended analysis is wrong?

SENATOR RUSSMAN: This entire bill is different from what it was in the House. The analysis is wrong in terms of the last page.

SENATOR COLANTUONO: Then, in fact, section 58 now provides for a mandated price for all producers selling above 20 quarts a day?

SENATOR RUSSMAN: The commissioner would set that, in consideration with the milk advisory board. That is correct.

SENATOR DISNARD: One of my questions has already been asked and I appreciate it. My second question that I would like to ask that hasn't been answered is, if the analysis is true and we are attempting to assist the small producer of 20 quarts or more, why are we going to charge him \$25.00 for an inspection?

SENATOR RUSSMAN: If they want to be inspected. You will see in the methodology, there are approximately a hundred such producers and the commissioner can not estimate how many would request inspection for which a fee would be charged. They don't have to be inspected. Those small producers of under 20 quarts, we are trying to make it easier on those particularly small entities.

SENATOR DISNARD: If they do not request an inspection, is there any way that they could be penalized?



SENATOR RUSSMAN: Not that I know of.

SENATOR HEATH: I rise in strong opposition to this. We went through this in the 50's and I thought we got out of this kind of thing. This is a central managed economy, it always sounds good on paper and I am sure that is why it is attractive to Senator McLane, who has always liked things that came out of the Eastern Bloc nations economically I guess, but that is what it is. They are leaving that economy because it doesn't work and we are entering into it in the 20th century as communism is dying around the world. There is no provision in here that will save small farmers if they can't produce a product that is profitable and competitive. Because it will come in from other states, and all we then do is guarantee the out-of-state farmers who are producing it at a lower cost that they will make more profit. This is hogwash and that is not a pun. This is a dumb thing to do. This is a dumb direction to go into. It is unfair that we take one industry because of where that industry works is pastoral and attractive. There are other ways to help the farmers. We haven't helped farmers when we charge them heavy fees on their farm ponds. We haven't helped them when we have been screwing around with the business profits tax and a lot of other things. If you want to help farmers, get out of their way. Don't give them some sort of socialistic protection.

SENATOR OLESON: I rise in strong support of HB 442. I understand the farmers as well as anybody because I am one of them. I can remember there were days when we had a meeting and they wanted to put a price control on, I think it was 3 cents a quart at that time. And somebody got up and said us farmers should have the right to give it away if we would like to. And that is the attitude that some of them have. But very seriously, I have had several calls from people right now in the last year, because of the rise in prices of grain and the dip in milk buyers, they are going to give up the ghost. I speak especially of one person on the North Road who had 250 cows during his day. And if anybody wants a continued source of fresh milk, if they like to see open spaces, I think this body should do everything in their power to help the farmers, because everything goes back to the farmer. Last night we had an occasion and everything I ate came off the farm one way or another and I would like to continue the process.

SENATOR COLANTUONO: Senator Heath, are there any other products in this state that we control prices on, as far as you know?

SENATOR HEATH: None that I know of, and I certainly hope not.

SENATOR COLANTUONO: Would the effect of this bill be to raise the price of milk in our grocery stores for our million plus citizens?

SENATOR HEATH: I think it would and it would be taking away milk in some cases from babies in the poorer families that Senator McLane is so sensitive to.

SENATOR COLANTUONO: Is this going to raise the price of the WIC program?

SENATOR HEATH: I would think that it would have to. So that means we will raise taxes to raise money for the WIC program.

SENATOR HEATH: Question of Senator Oleson? Senator Oleson, you mentioned that the reason that the dairy farmers were having a problem is that the price of grain had gone up. That is a farm product. Should we put a minimum under the price of grain to protect those farmers and so on through the economic chain, until we have reached disaster?

SENATOR OLESON: When we talk about grain, it is mostly imported grain that comes from the midwest and they already have that in place now. Your corn subsidy, your tobacco subsidy, your sugar beet subsidy. I am talking about the farmer in New Hampshire. I should think he should have a little protection.

Senator Blaisdell moved the question.

Adopted.

A Division Vote was requested.

Yeas: 13

Nays: 4

Ordered To Third Reading.

Senator Heath in opposition to HB 442-FN.

**HB 604**, an act granting rulemaking authority to the division of waste management relative to special waste and defining special waste. Environment committee. Ought To Pass With Amendment. Senator Russman for the committee.

SENATOR RUSSMAN: This is probably a relatively non-controversial bill. And I am sure you prefer that it come out at the end. In any event, this bill, simply stated, defines what special waste is, which has to do with infectious and medical waste. It has a rule-making process for setting the standards and procedures for the treatment and the disposal of the same.

#### **Amendment to HB 604**

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect upon its passage.

Amendment Adopted.

Ordered To Third Reading.



**HB 269**, an act granting probate judges greater discretion to require bonds from executors and trustees and relative to probate court scheduling.

Judiciary committee. Ought To Pass With Amendment. Senator Podles for the committee.

**SENATOR PODLES:** HB 269 changes the title of the bill to probate scheduling and removes both sections 1 and 2 of the bill. It abolishes the statutory schedule of sessions for the probate court and will require the registers of probate court for each county to schedule cases and matters with the advice and consent of the probate judge sitting in that county. Currently, the probate courts meet on the same day and if any of the judges are ill or if they are on vacation, it is almost impossible to find someone to replace them. So the committee recommendations ought to pass with amendment.

### **Amendment to HB 269**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to probate court scheduling.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Probate Court Scheduling. Amend RSA 548 by inserting after section 4 the following new section:

548:4-a Scheduling. The registers of probate for each county shall schedule all cases and matters to be held in said county with the advice and consent of the probate judge sitting in said county.

2 Repeal. RSA 549, relative to times and places of holding courts of probate, is repealed.

3 Effective Date. This act shall take effect upon its passage.

### **AMENDED ANALYSIS**

The bill abolishes the statutory schedule of sessions for the probate court.

Amendment Adopted.

Ordered To Third Reading.

### **RESOLUTION**

Senator Wayne King offered a resolution.

**SENATOR W. KING:** As you know, this body took a position to support the troops in the Gulf War and we knew that there would be some pain that we would all have to suffer. But I have here with me two people who suffered a little bit of pain as a result of the conflict

in the Persian Gulf and I wanted to have them come in here. Andrew Cull of Candia and Joy Weyland of Woodsville were awarded representatives of the 1991 William Randolph Hearst Foundations, United States Senate Youth Program. They were scheduled, in recognition of their academic achievements, to go and spend one week down at the United States Senate as well as receiving a scholarship for next year. Unfortunately, because of the conflict in the Gulf, that was cancelled. So they were not able to go and that is why we asked them to come here today, so they could be honored by this Senate and presented with a resolution.

Adopted.

**HB 620-FN**, an act relative to the transportation of alcohol in open containers. Transportation committee. Ought To Pass With Amendment. Senator Pressly for the committee.

**SENATOR PRESSLY:** It is with pleasure to return to you from the committee with this amendment. It was a pleasure to work on this and we feel that we took all of the objections that Senate colleagues had regarding HB 620 and were able to address and to overcome them. We were able to clearly define a way in the bill to eliminate any reference to public parking, so the tradition of tailgating will be honorably preserved in the state of New Hampshire. We have put in language that will insure that RVs will be exempt from the statute and we feel that we have successfully overcome some of the concerns that our Senate colleagues had. I would also like to point out to you that for the current status, this is the list of 98 cities and towns in the state of New Hampshire that now currently do have an open container local statute. I believe that is approximately 50 percent of the population. Which means that by implementing this, we will now have a uniform statewide open container. Speaking earlier with other Senators, this is an issue that has been presented on numerous occasions, it has been sponsored by various colleagues in the Chamber and I believe that the feeling is that this is the time, this is the year and it is a pleasure that the committee unanimously recommends the amendment and the final passage of the open container bill, HB 620.

**SENATOR DISNARD:** I would like to commend the Transportation committee for listening to the concerns of the Senate and I also want to commend the Transportation committee for obtaining another supporter. You can read in the papers and notice that the Governor criticized me in the news media, because I questioned the areas that were just addressed. And I am very happy to read in today's Manchester paper, these amendments were suggested by Governor Judd Gregg and his DWI task force. Now what does that say? If I sup-



ported that a week ago and was considered "one of those who wants to keep the drunks on the road", what is your answer to this. I will support this bill change.

### **Amendment to HB 620-FN**

Amend RSA 265:81, II as inserted by section 1 of the bill by replacing it with the following:

II. Except as provided in paragraph V, no driver shall transport, carry, possess or have any liquor or beverage within the passenger area of any motor vehicle upon any way in this state except in the original container and with the seal unbroken. Securely capped partially filled containers of liquor or beverages shall be stored and transported in the trunk of the motor vehicle. If the motor vehicle does not have a trunk, such containers shall be stored and transported in that compartment or area of the vehicle which is the least accessible to the driver.

Amend RSA 265:81 as inserted by section 1 of the bill by inserting after paragraph V the following new paragraph:

VI. For the purposes of this section only:

(a) "Passenger area of any motor vehicle" shall not include any section of a motor vehicle which has been designed or modified for the overnight accommodation of persons or as living quarters.

(b) "Way" shall mean the entire width between the boundary lines of any public highway, street, avenue, road, alley, park, or parkway, or any private way laid out under authority of statute, or any such way provided and maintained by a public institution to which state funds are appropriated for public use or any such way which has been used for public travel for 20 years.

### **AMENDED ANALYSIS**

This bill bans the transportation or possession by any driver or passenger of any opened container of alcoholic beverages in any vehicle upon any way in this state, with the following exceptions:

(a) possession of opened containers of alcoholic beverages by chartered bus passengers.

(b) possession by passengers in limousines for hire.

Violation of the proscription is punishable as a violation with a discretionary license suspension for convicted drivers. The bill changes the penalty for minors found transporting alcoholic beverages.

Recess.

Out of recess.

Amendment Adopted.

Ordered To Third Reading.

**HB 419**, an act prohibiting the use of petroleum-powered motors on Tewksbury Pond in the town of Grafton. Wildlife & Recreation committee. Ought To Pass. Senator Heath for the committee.

**SENATOR HEATH:** In the model words of former Senator Wiggin, we had a good hearing, everybody liked this bill and go with the committee.

Adopted.

Ordered To Third Reading.

**HB 710-FN**, an act relative to the regulation of tree stands, observation blinds, and pit blinds. Wildlife & Recreation committee. Ought To Pass. Senator Bass for the committee.

**SENATOR BASS:** This bill requires that an individual wishing to erect a tree stand get the express written consent of the landowner. Apparently, there have been some situations in the past where tree stands were built without the consent of the owner, which resulted in a number of different problems. First, the owner usually objected and ended up posting the land, which eliminated hunting altogether. Secondly, owners had realized that they had potential liability problems associated with these tree stands that they weren't responsible for building. And it seems to be just common practice if one would ask a landowner's permission before they cut and built a tree house as such. This bill simply places in statute what should be common practice among sportsmen in New Hampshire. We urge the Senate's adoption of the committee report of ought to pass.

Adopted.

Ordered To Third Reading.

### RECONSIDERATION

Senator Blaisdell moved reconsideration on HB 627, relative to the treatment of repeat DWI offenders.

Adopted.

Referred To Finance (Rule #24).

### RESOLUTION

**SR 7**, relative to the James Bay II project of Hydro-Quebec.

**SENATOR COHEN:** A resolution is being passed out for you to take a look at. If I could beg your indulgence for about three or four minutes, and go through it. It is something having to do with the



James Bay II project of Hydro-Quebec. If I may, I'll just go through it with you. Whereas, the New Hampshire Senate recognizes that environmental degradation is a global problem and the protection of the environment is the responsibility of all participants in the world economy; and whereas, the New Hampshire Senate recognizes that energy efficiency, least cost energy planning, and conservation are the best tools for meeting the region's future power needs; and whereas thanks to a reduced energy demand there now exists in New Hampshire and New England a surplus of electric power capacity; and whereas the New Hampshire Senate finds that the importation of electricity from the James Bay II project of Hydro-Quebec raises unprecedented environmental concerns due to the destruction of vast expanses of wilderness and rivers due to the massive flooding of over 2,325,000 acres, which is roughly half the size of the state of New Hampshire; and whereas this is a fairly lengthy bill, I think I won't read all of the resolution here. But basically, what this says is that I am asking the Senate of the state of New Hampshire to go on record in opposition to the project, joining with our neighboring states. The state of Maine has resolved to terminate its contract, the states of Vermont and New York are similarly considering termination of their contracts. It would destroy an area half the size of New Hampshire. Wipe out the areas of existence for 15,000 native Cree and Inuit people, destroying their tribal lands forever. In a single incident, 10,000 caribou were drowned by the flood waters. It is a major environmental problem. There is no need for a hydro project of this scale. I would simply ask that we go on record in opposition to this project. I would ask for support of this.

SENATOR OLESON: At the present time, I haven't had the opportunity to really examine this resolution. At the same time, twice in my lifetime, I have visited the Quebec project and James Bay. In my mind, everybody seems to want power, but it seems that anytime they come up with an idea how to generate it, everybody is against it. We don't like oil burner power because of the pollution to the atmosphere, we don't like nuclear because of the waste. They don't like hydro because it might flood a certain amount of land. When we first came into James Bay, as I understand it, they built the project and then they started to come around looking for customers and they finally found them. The last time I was up to con the people who are governing it or promoting it, they said that is in the past. That from now on, they are going to take orders and then they will build. They aren't going to build and then run around and try to find customers. I think that maybe a logical conclusion. Myself, I have been an advocator of hydro power for a long, long time. I think it is a clean power. I don't know of any other power that we generate that

is cleaner than hydro. When we speak of Canada, I think we think of a foreign country but, in reality, I think of a very good neighbor that we happen to have up north. I would not like to back ourselves into a corner saying that we shall not accept this kind of power from James Bay. At the present, as I said before, I haven't had the time to really read it, really examine it. I could make the motion, but for the time being I would like to table it, if that is possible. At the present, if I can't table it, so I do have time to read it and find out what it really means, I will have to vote against it.

SENATOR DELAHUNTY: I commend our fellow Senator for his proposal. I am sure he has taken a serious look at this, but I don't think the rest of the Senate body has had a chance to study this resolution and fully understand the ramifications that might take place should we adopt it. At this time, I think my recommendation would be to vote against the resolution and maybe give our good Senator time to get together and study the proposal for next session and bring it up again. I recommend we vote to overturn.

SENATOR HEATH: If we were to kill this proposal now, it couldn't be entered in the next session, because it would be the same subject matter? Could it?

PRESIDENT DUPONT: It is a resolution and not a statute, so I would assume that it could be introduced again, either in resolution form or in bill form.

## SR 7

STATE OF NEW HAMPSHIRE  
In the year of Our Lord one thousand  
nine hundred and ninety-one

### A RESOLUTION

relative to the James Bay II project of Hydro-Quebec.

Whereas, the New Hampshire senate recognizes that environmental degradation is a global problem, and that protection of the environment is the responsibility of all participants in the world economy; and

Whereas, the New Hampshire senate recognizes that energy efficiency, least cost energy planning, and conservation are the best tools for meeting the region's future power needs; and

Whereas, thanks to a reduced energy demand, there now exists in New Hampshire and New England a surplus of electric power capacity; and



Whereas, the New Hampshire senate finds that the importation of electricity from the James Bay II project of Hydro-Quebec raises unprecedented environmental concerns, due to the destruction of vast expanses of wilderness and rivers due to massive flooding of over 2,325,000 acres, which is roughly 1/2 the size of the state of New Hampshire; and

Whereas, in the James Bay I project such flooding caused the release of mercury from soil into aquatic systems, causing significant harm to numerable quantities and varieties of fish and marine mammals; and

Whereas, the completion of the James Bay II project would thus threaten vast estuaries and populations of fish, mammals, birds, invertebrates, and vegetation; and

Whereas, completion of the James Bay II project would mean the destruction of the entire James Bay ecosystem, the heart of the largest remaining wilderness in North America; and

Whereas, completion of the James Bay II project would totally destroy the traditional means of subsistence for the population of 15,000 native Cree and Inuit, destroying their tribal lands forever; and

Whereas, in a single incident, over 10,000 caribou were drowned by Hydro-Quebec flood waters; and

Whereas, no comprehensive or independent scientifically valid assessment of social and environmental impact of James Bay II has yet been undertaken; and

Whereas, export contracts with the United States provide the only financial incentive for proceeding with the James Bay II project; and

Whereas, New Hampshire now plans to import electric power through its transmission lines for distribution to NEEPOOL and other electric utilities; and

Whereas, Hydro-Quebec is artificially stimulating demand for James Bay power through a massive \$20 billion subsidy to Canada's aluminum industry, which is a heavily polluting industry and is a grossly inefficient user of electric power; and

Whereas, America has, in recent times, experienced the harsh consequences of dependence on foreign sources of energy; and

Whereas, least cost energy planning, conservation, and increased energy efficiency strengthens New Hampshire's economy by lowering electric bills for residential and commercial ratepayers; and

Whereas, the public utilities commission and regional power authorities and electric utilities may still legally withdraw from contracts for power supplied by Hydro-Quebec; and

Whereas, such a withdrawal would serve as a significant economic disincentive to the James Bay II project; and

Whereas, the state of Maine has already resolved to terminate its contract, and the states of Vermont and New York are similarly considering termination of their contracts with Hydro-Quebec for James Bay II power;

Now, therefore, be it Resolved by the Senate:

That the senate of the state of New Hampshire calls upon this state to join with our neighboring states in going on record in opposition to the James Bay II project, and in calling for NEEPOOL and all other participating utilities to withdraw from contracts for power to be supplied from Hydro-Quebec through the James Bay II project.

Senator Cohen moved to adopt.

Recess.

Out of Recess.

Motion failed.

A Division vote was requested.

Yes: 7

No: 9

Resolution failed.

Senator McLane (Rule #44).

### **TAKEN OFF THE TABLE**

Senator Currier moved to Have HB 209-FN, Taken Off The Table.

Adopted.

**HB 209-FN**, an act relative to conflicts between the municipal budget law and collective bargaining negotiations. Executive Departments committee.

**SENATOR CURRIER:** At the time that this bill was referred out, Senator Nelson had a question as did Senator Colantuono. Those questions have now been addressed with regard to the complexity of the bill and what it actually did with regard to the ten percent, and dealing with the conflicts of the collective bargaining with the municipal budget act laws. I think that the description of the bill that was outlined in the previous session speaks for itself and I would urge the full Senate to pass this legislation to eliminate these conflicts.

Adopted.

Ordered To Third Reading.



**REPORT OF COMMITTEE ON ENROLLED BILLS****Enrolled Bill Amendment to SB 152**

Amend section 1 of the bill by replacing lines 2 and 3 with the following:

inserting after section 2-f the following new section:

12-A:2-g New Hampshire-Canadian Trade Council. The commissioner of

SENATOR CURRIER: The amendment renumbers RSA sections to avoid duplication of numbers in the RSA section inserted by this bill.

Amendment Adopted.

**REPORT OF COMMITTEE ON ENROLLED BILLS****Enrolled Bill Amendment to SB 144-FN-A**

Amend section 4 of the bill by replacing it with the following:

4 Effective Date. This act shall take effect July 1, 1991.

SENATOR CURRIER: This amendment corrects a typographical error in the effective date of the bill.

Amendment Adopted.

**REPORT OF COMMITTEE ON ENROLLED BILLS****Enrolled Bill Amendment to HB 244-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT**

establishing a committee to examine whether the state commission for human rights should be authorized to levy administrative fines and award compensatory damages.

SENATOR CURRIER: This amendment amends the title to conform to the substance of the bill by deleting a reference to punitive damages, which was deleted.

Amendment Adopted.

**HOUSE MESSAGE****HOUSE CONCURS WITH COMMITTEE OF  
CONFERENCE REPORTS**

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

**SB 100-FN**, relative to simulcast wagering.

Senator Blaisdell moved to adopt the Committee of Conference Report.

Adopted.

### **HOUSE CONCURS WITH COMMITTEE OF CONFERENCE REPORTS**

The House of Representatives has adopted the recommendation of the committee of Conference to which was referred the following entitled Bill:

**HB 428-FN**, relative to the enforcement and administration of state taxes by the department of revenue administration.

### **HOUSE REFUSES TO CONCUR**

The House of Representatives has refused to concur with the Senate amendment to the following entitled House Bill:

**HB 127**, establishing Civil Rights Day and abolishing Fast Day.

The House of Representatives has refused to concur with the Senate amendment to the following entitled House Bill:

**HB 722-FN**, relative to the control and regulation of billboards and other advertising devices and establishing an outdoor advertising study committee.

### **HOUSE ACCEDES TO SENATE REQUEST FOR A COMMITTEE OF CONFERENCE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 195-FN**, relative to campaign expenditure limitations.

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

**HB 213**, relative to rates set for medicaid and the administrative procedure act.

**HB 221**, relative to respite care for Alzheimer's disease.

**HB 319**, establishing a committee on access to health care.

**HB 362**, establishing the northeast conservation law enforcement compact.

**HB 372**, relative to further protection of scenic roads in municipalities and the removal of trees posing a safety hazard.

**HB 413**, relative to penalties for insurance laws violations.



**HB 670**, relative to condominium conversion of manufactured housing parks.

**HB 550**, relative to the withdrawal of accumulated contributions and retirement system membership.

**SB 4**, establishing a committee to study the New Hampshire state port authority and relative to international trade.

**SB 70** relative to superior court clerks for Hillsborough county.

**HJR 1**, concerning the settlement of the Portsmouth, New Hampshire Naval Shipyard and inner Portsmouth Harbor border dispute between New Hampshire and Maine.

**Adopted.**

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The committee on Enrolled Bills has examined and found correctly Enrolled the following entitled Senate Bill:

**SB 100**, relative to the simulcast wagering.

**Adopted.**

### **ANNOUNCEMENTS**

**PRESIDENT DUPONT:** I have some dates that I think would be of importance to all of you as we move to wind down our work. It is my intent to have us meet the 14th, the 15th and 16th. That would be Tuesday at 1:00 p.m., Wednesday at 1:00 p.m. and we would come in at 10:00 a.m. on the 16th. It is also our intent to try and get all of the legislation that is now in committee, with the exception of the Capital Budget, the Operating Budget and the Ways and Means bills, before the body next week. Obviously, most, if not all, of the public hearings have been held on legislation, so it is a question of getting the committees back together and getting the final work done on these bills. There is a reason for doing that and I would like to also inform you that it would be our intent to have Senate Finance ready to bring a budget to the full Senate the following week. What we will be doing, is on the 21st, 22nd, and the 23rd, the various sections of the budget will be presented to the Senate in a work session and I emphasize work, because it is our intent to have an interactive session with the rest of the Senate on each section of the budget, having both the LBA staff and the department heads as necessary present to work with the Senate. I think all of us want to make intelligent decisions about this most difficult problem that faces us. We are going to bring this budget to the floor and I think it is imperative that if there are suggestions or areas in which members of this body feel

that additional action should be taken that both the staff and the rest of the Senate have the opportunity to be able to have sufficient time to work with Senate Finance to get those questions answered. That doesn't mean that we expect to come out of these three days with the support of everyone in this body, but I think as we have said in the past, there has not been sufficient time or sufficient resources to allow the full body to participate in the budget process. This is three full days that I hope Senate Finance and the rest of the Senate will have the opportunity to interact on the budget in a manner that will be both productive and one in which we can come to some conclusion about where we are going to head with the budget process. So that will be on the 21st, 22nd, and 23rd. It would be full day sessions, and I assume that we would take two sections of the budget to work on at each of those days. I would just request that those who have concerns about the budget that this would be the appropriate place and time in which those concerns can be addressed. That is basically where we are going to proceed. I would assume that we are going to start at 9:00 in the morning. So we will get a schedule to you on Tuesday on what sections will be held on each day, so that those of you who have concerns with specific sections would have the ability to work on those specific sections.

SENATOR HEATH: Do you anticipate that we will be out before June?

PRESIDENT DUPONT: It is my anticipation that by the end of the first week of June that the only thing remaining for this body to take for action would be to respond to vetoes. And if there are no vetoes, then I anticipate that we would not come back in after that week.

SENATOR HEATH: My problem is, if we wind up the first week of June, I have a duty that corresponds with my Senate obligations and I don't want to miss the crucial last votes in this body, because that essentially is when a lot of very important business gets held. I wonder if we could set final dates to the convenience of the Senators far enough ahead so that any who can make plans can flex them around and any who can't, can have input into those dates.

PRESIDENT DUPONT: I would tell you that it is my belief that most legislation, with the exception of the capital budget, the operating budget and the Ways and Means bills would be acted on by the 16th. We would have the opportunity to get most of the committee of conference reports out of the way and done on the 28th and 29th. Those would be two days on which we will act. I would assume that what would be remaining after that would be the budget. That's it.



SENATOR MCLANE: The first time that we can have an executive session in Ways and Means would be on Tuesday, after the session. Hopefully, by that time, we will have a figure from Finance on how much money we need.

PRESIDENT DUPONT: We have come to the crucial issues and I just want to make sure that everybody understands the process. I have requested from Ways and Means that they withhold action on the revenue bills before them, so that we get a little bit further along in the budgetary process, which I anticipate that Senate Finance, as I have indicated, will be ready to go with by the end of next week. I have also requested of the Speaker, the Senate President, and the Governor that the three of us along with the Ways and Means committees of both bodies sit down to try and wrestle with the issue of revenues so that by the end of the day on Tuesday, there is some idea about a revenue number that both bodies and the Governor will agree on. I think that would be very helpful. That is obviously an unadjusted number, because the Senate has not taken any of the actions that are before it in terms of raising revenues or additional taxes or raising rates. It is my understanding that the meeting has been scheduled for 11:00 on Tuesday for any of you who would care to participate or be there. We certainly welcome you to come along. I think that is the first step in trying to resolve the budget and I think it is important that we do so.

SENATOR CURRIER: I would just like the record to indicate to the Senate that on Saturday night, I will have the honor of presenting a Senate resolution, commemorating the dedication of the Leif Clement Hockey rink at New England College. I just wanted to indicate that for the record.

### RESOLUTION

Senator Delahunty moved that the rules of the Senate be so far suspended as to allow all bills to be placed on third reading and final passage, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

Senator Delahunty moved that the Senate be in recess until Tuesday May 14, 1991 at 1:00 for the sole purpose of receiving House Messages and Enrolled Bill Reports.

Adopted.

**LATE SESSION**

**HB 209-FN**, an act relative to conflicts between the municipal budget law and collective bargaining negotiations.

**HB 269**, relative to probate court scheduling.

**HB 329-FN-A**, an act relative to the business corporations act and appropriating funds for certain administrative expenses to be reimbursed by fees.

**HB 419**, an act prohibiting the use of petroleum-powered motors on Tewksbury Pond in the town of Grafton.

**HB 442-FN**, an act authorizing the commissioner of agriculture to establish minimum price rates for small producers.

**HB 604**, an act granting rulemaking authority to the division of waste management relative to special waste and defining special waste.

**HB 620-FN**, an act relative to the transportation of alcohol in open containers.

**HB 710-FN**, an act relative to the regulation of tree stands, observation blinds, and pit blinds.

Senator Delahunty moved that we recess until Tuesday, May 14, 1991 at 1:00 p.m.

Adopted.

Recess.

Out of Recess.

**LATE SESSION****REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled Senate Bills:

**SB 66**, relative to durable power of attorney for health care.

**SB 144**, relative to the Women's War Memorial and making an appropriation therefor.

**SB 152**, relative to a joint New Hampshire-Quebec trade council.

**SB 89**, relative to school district planning committees.

**SB 135**, relative to recovering costs, fees, and expenses in certain takeovers of utilities.

**HB 187**, including agents of investment advisors in the definition of "agent" under the securities laws.



**HB 329**, relative to the business corporation act and appropriating funds for certain administrative expenses to be reimbursed by fees.

**HB 361**, repealing certain obsolete education laws.

**HB 381**, relative to the recovery of legal fees incurred by the state.

**HB 441**, relative to the uniform limited offering exemption from securities registration and filing requirements.

**HB 442**, authorizing the commissioner of agriculture to establish minimum price rates for small producers.

**HB 450**, relative to claims to dower and curtesy.

Adopted.

### RESOLUTION

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, and that when we adjourn, we adjourn until Tuesday, May 14, 1991 at 1:00 p.m.

Adopted.

### RESOLUTION

Senator Delahunty moved that the Senate now adjourn.

Adopted.

Adjournment.

*May 14, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Welcome back Senator Fraser. Sitting here on the podium I looked around, you know I can see good up here. I see that we have two kings and a lot of queens. Let us pray. It is alleged that we are \$100,000,000 in the hole, so what do we do? We pray hard and hope that God will send a miracle to us. Amen.*

Senator Cohen led the Pledge of Allegiance.

**INTRODUCTION OF GUESTS****HOUSE MESSAGES****HOUSE CONCURS WITH SENATE AMENDMENTS**

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

**HB 118**, relative to determination of alimony where one spouse has remarried.

**HB 168**, relative to highway classification.

**HB 169-FN**, relative to the disposition of revenues collected under the land use change tax.

**HB 175-FN**, relative to the hunting of pheasants.

**HB 208-FN**, relative to annulments of criminal records.

**HB 445-FN**, defining "compact parts" of towns and cities with regard to criminal charges for unauthorized use of firearms and firecrackers.

**HB 519-FN**, relative to municipal budget matters and the timber tax.

**HB 683-FN-A**, establishing a transportation task force for the twenty-first century and making an appropriation therefor.

**HOUSE RE-REFERS TO COMMITTEE**

**SB 62-FN**, relative to licensure of athletic trainers.

**SB 120-FN-A**, establishing a sunset committee and restoring the sunset review process and making an appropriation therefor.

**SB 154-FN**, relative to the jurisdiction of state police employees.

**SB 159-FN**, relative to posting of public documents in licensed health facilities and health care facilities.

**SB 184-FN**, relative to voter registration.

**SB 205-FN**, establishing a committee to study the enforcement of RSA 205-A.

**HOUSE REFUSES TO CONCUR**

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

**SB 69-FN**, relative to certification of professional counselors.



**SB 132-FN**, establishing a committee to study an early warning system for monitoring licensed nuclear power plants.

**SB 134-FN**, relative to a public recreation revolving fund.

**SB 169**, prohibiting steel leg traps.

**SB 190-FN**, establishing a committee to study insurance coverage for infertility.

**SCR 3**, urging the New Hampshire supreme court to give preferred status to appeals of adoptions.

### **HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 78-FN**, relative to loans to municipalities from state revolving loan funds.

Senator Fraser moved concurrence.

Adopted.

### **HOUSE CONCURS WITH SENATE AMENDMENTS**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 229-FN**, relative to a Martin Luther King Human Rights Day.

Senator Bass moved concurrence.

Adopted.

### **HOUSE CONCURS**

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

**SB 33-FN**, relative to establishing a nonlapsing account for the New Hampshire technical institute and vocational technical colleges and creating the position of director of financial management.

**SB 49**, relative to alternate zoning board of adjustment members.

**SB 89**, relative to school district planning committees.

**SB 96**, relative to adoption.

**SB 101-FN**, establishing a study committee relative to the industrial development authority.

**SB 135-FN**, relative to recovering costs, fees, and expenses in certain takeovers of utilities.

**SB 139-FN**, relative to preventing damage to underground utility installations.

**SB 146**, relative to equipment and instruction programs and revolving funds for regional vocational centers.

**SB 174-FN**, relative to possessing and dispensing prescription drugs by nonprofit family planning agencies.

**SB 209-FN**, relative to issuance of a notice or citation by the probate court to a court-appointed fiduciary for failure to file an inventory or an account of administration and to requirements for notice to beneficiaries.

**SB 214-FN**, exempting specialized programs or equipment of the Christa McAuliffe planetarium from the state's competitive bidding process.

### **HOUSE REQUESTS CONCURRENCE WITH AMENDMENTS**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 47**, relative to emergency response personnel.

Senator Bass moved concurrence.

Adopted.

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 9-FN**, relative to a study of interactions between the mental health and criminal justice systems.

Senator Podles moved concurrence.

Adopted.

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:



**SB 43-FN**, establishing a committee to study utilization and management review and managed care.

Senator J. King moved concurrence.

Adopted.

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 32-FN**, permitting district and municipal courts to accept payment of fines by credit card.

Senator Oleson moved concurrence.

Adopted.

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 150**, relative to partnerships and relative to foreclosures.

Senator Fraser moved concurrence.

Adopted.

#### **HOUSE CONCURS WITH SENATE AMENDMENTS**

The House of Representatives concurs with the Senate in its amendment to the following entitled House Bills sent down from the Senate:

**HB 133**, relative to the right to know law.

**HB 242-FN**, relative to the powers of county conventions.

**HB 271-FN**, to study the purchasing policies of the technical institute and the technical colleges.

**HB 311**, confirming an exemption from registration for securities listed on the National Association of Securities Dealers Automated Quotation National Market System or on the Chicago Board Options Exchange.

**HB 406**, relative to modification of support orders.

**HB 684-FN-A**, regarding the committee to study conservation and preservation of state historic flags and making an appropriation therefor.

**HB 767-FN**, to study access to group health insurance policies.

### COMMITTEE REPORTS

**HB 184-FN**, an act relative to civil penalties for securities violations.

Banks committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill simply defines the penalties that can be assessed in the event of a securities violation. The amount is not to exceed \$5,000 in the event of a violation that was intentionally a knowing violation, \$2,500 for any violation if it was because of negligence. The authority to do these things was already there. All this bill does is put an amount consistent with what other penalties for the same types of offenses as on the books now.

Adopted.

Ordered To Third Reading.

**HB 704**, an act relative to liquidation under the supervision of the bank commissioner. Banks committee. Ought To Pass With Amendment. Senator Fraser for the committee.

SENATOR FRASER: Mr. President, this bill results from the combined efforts of the state Banking Department, the FDIC, and the Bankers Association to clarify the procedures which attend bank closures. Because of economic developments over the past few months, laws which in some cases are more than one half century old are being utilized with more frequency. It is now important I am sorry to say that we be sure that our banks failure procedures are both modern and reflective of the modern economic and legal practices in reality. This is a two part report, Mr. President. The first part, is an explanation of the bank closure process and the slight, but very important change that needed to be sure that the process of FDIC and other federal insurance take-over of a failing bank go smoothly with enough efficiency to avoid harm to the depositors, bank employees, and the public at large. The second part, deals with section seven of an initiative needed to provide for the Open Bank Assistance Capital Infusion Program our state needs. And if we are even to begin turning the state's economic downturn into a more positive direction. In both cases remember that the objective is not to protect bankers or borrowers who have made poor investments, nor do these provisions provide any aid or comfort to bank management of the stockholders. At the point of failure we are concerned about protecting the depositors, the taxpayers who insured these



depositors, and the economy of the community which the bank is situated. I am going to develop very briefly a section of a proposed amendment in just a few moments. Part one of the amendment, amends 395:10-a adding language to make clear that when the FDIC or other federal agency is appointed as a liquidator or receiving agent it will carry out its duties pursuant to provisions of federal law. This language accommodates the need of federal agencies to administer liquidations under one set of rules. Section two, this amendment to RSA 395:10-b specifies that any emergency waiver of banking laws or rules will be limited to the insolvent New Hampshire institution and will end on the completion of a liquidation. Part three, amends 395:4 which allows the bank commissioner to petition the Superior Court to take possession of the property and business of the institution through an ex-parte process. The ex-parte proceedings are necessary to preserve confidentiality and prevent runs on institutions prior to the takeover. The amendment allows the bank commissioner to petition the Superior Court when he receives notice that the federal deposit insurance of the institution will be terminated. Section four, this amendment to RSA 395:19 acknowledges the priority of perfected security interest or mortgage means granted by the institution pursuant to written contracts or agreements on its assets. Section five, the amendment to RSA 395:29-a provides that no deposit account in any closed or insolvent institution may be reduced without the consent of the FDIC. This amendment was requested by the FDIC to protect its interest and the insurance deposit. Section six, the amendment to RSA 395:30 specifies the priority of distributions to claimers on the assets of a closed or insolvent institution. In particular it makes clear that the payment or wage salary that an employee, to the extent permitted under federal bankruptcy laws and the payment of deposit accounts have priority over other general claims of the assets. Section eight, the amendment adds a new section 384:56 which makes clear that no bank be subject to an attachment prior to final judgment in any judicial proceeding. National banks are protected from prejudgment attachment and the same privileges recognized in this legislation as the state banks. The perry statutes have an interpreter to provide the protection to state banks, but this legislation is needed to remove any doubt as to its availability. Part two, as we all are aware earlier this year, the Governor and Chairman Seidman of the FDIC jointly committed to a program designed to break the economic down spiral in New Hampshire, caused by a down turn and made worse by unprecedented regulatory crackdown on our state's credit system. The program agreed to us was to utilize a procedure which is already part of federal law that is called open bank assistance. Everyone agrees that this approach to under capitalized banks on

the verge of failure is less expensive to the taxpayers. It preserves the going concerned value of the bank, protects the interest so the existing borrowers are able to repay the loan and enables the FDIC to attract much needed outside capital to our banks without in any way benefiting existing shareholders in management. You may recall, Mr. President, a while ago we acted on SB 228 to remove an impediment existing in our business profits tax law which would, without intending to do so, would have put a state tax on open bank assistance capital infusions from the FDIC, which in turn would have prevented open bank assistance transactions from ever occurring. With this change in place, the program was able to move forward, but still the program has not been implemented. Just as everyone agrees that this is the best way to deal with the problems now facing our economy, it is also widely understood that its failure to be implemented is based on the uncertainty with which it confronts the FDIC and other members with capital to infuse. When they perform diligence they cannot see side agreements of other nondocumented claims which may be used to block payment of an existing loan. This change in the state law is designed to address the problem of unseen liabilities which even the most thorough or due diligences proceedings came out in public. It extends the protection to new investors which is now available only in closed transactions. If it does not pass, open bank assistance will not occur. The banks will be closed in order to obtain the best of protection which at this point are available only in closed bank transactions. I am getting tired, Mr. President. Closed transactions are more expensive to the taxpayers who stand behind the deposits than to the economy in which the bank is situated. Please understand that we are talking about banks which will be closed with more severe negative impact on taxpayers, local economy, and depositors, as open bank assistance were to provide. In a closed bank transaction all defensive and counter claims are cut off anyway. The issue addressed by this amendment is not whether the claims will be cut off, it is whether the state can obtain the benefit of open bank assistance transactions. This will not occur unless we make this change. This bill was given wide coverage in the press and Turners race, considering procedures are already underway. Objections were raised by some developers who agreed that there was no better offer than closed bank transactions, they wouldn't be under this bill. But that section eight of the amendment could be construed to cut out those right now in progress. Their concerns were legitimate and they were addressed by four members, sponsored by Senator Shaheen and an amendment, Mr. President, that I will support when it is presented after favorable action on this report and with that, Mr. President, I move that we adopt the amendment to 704.



**Amendment to HB 704**

Amend the bill by replacing all after the enacting clause with the following:

1 Authority to Appoint a Federal Agency as Liquidating or Receiving Agent. RSA 395:10-a is repealed and reenacted to read as follows:

395:10-a Authority to Appoint a Federal Regulatory Agency as Liquidating or Receiving Agent. Upon petition by the bank commissioner for the state to the superior court, the court may authorize the commissioner to appoint as liquidating or receiving agent of the bank commissioner a federal agency having authority to act in such capacity, subject to consent of such federal agency, allowing the federal agency so appointed to take possession of the assets, both legal and equitable, of a legally insolvent or closed New Hampshire depository institution. As liquidating or receiving agent appointed by the bank commissioner with the permission of the court, the federal agency may assist the bank commissioner in the performance of his duties pursuant to this chapter, completing the final liquidation of such depository institution and vacation of its charter. The federal agency so appointed shall not be subject to the requirements of RSA 395:5. Upon such appointment, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration or any successor federal agency shall carry out its duties as receiver or liquidator pursuant to the applicable provisions of federal law.

2 New Section; Liquidations; Emergency Waiver. Amend RSA 395 by inserting after section 10-a the following new section:

395:10-b Emergency Waiver. The bank commissioner, upon the appointment of a federal agency as receiving or liquidating agent pursuant to RSA 395:10-a, shall have authority to issue an order waiving or suspending all laws, rules, practices and policies with respect to the authorization to commence or continue banking operations in the state of New Hampshire as he deems necessary and prudent. Such order shall take effect upon the appointment of the federal agency and shall continue in force until all actions necessary to liquidate the insolvent or closed New Hampshire depository institution are completed. Any waiver or suspension of any law, rule, practice or policy shall be limited to matters pertaining to the legally insolvent or closed New Hampshire depository institution for whom a liquidating or receiving agent has been appointed.

3 Insolvency. Amend RSA 395:4 to read as follows:

395:4 Insolvency. Whenever it appears to the commissioner that the assets of any institution to which this chapter applies are reduced in value below 90 percent of the amount due its depositors or

creditors, or at such time as the commissioner receives notice from a federal deposit insuring agency that such agency intends to terminate the subject institution's deposit insurance, the commissioner shall represent the facts by *ex parte* petition to [some] a justice of the superior court, who shall direct the commissioner to take possession of the property and business of such institution and retain possession thereof until it shall resume business, or until its affairs shall finally be liquidated as herein provided; and upon completion of such liquidation the charter of such institution shall be vacated.

4 Dividends. RSA 395:19 is repealed and reenacted to read as follows:

395:19 Payment of Secured Claims and Dividends. At any time after the expiration of the date fixed for the presentation of claims, upon application of the commissioner, the court may authorize:

I. Any person who holds a perfect security interest or a mortgage lien in assets of the insolvent or closed New Hampshire depository institution, which security interest or mortgage lien was granted to the person by such institution pursuant to a written contract or agreement as security for the payment of a debt or obligation deemed to be valid by the commissioner to:

(a) Dispose of or foreclose its mortgage lien on the collateral pursuant to applicable law;

(b) Satisfy such debt or obligation from the proceeds thereof;

(c) Pay the balance of the proceeds, if any, to the commissioner; and

(d) Provide a full account to the commissioner for all actions taken in connection with the disposition of or foreclosure of its mortgage lien on the collateral; and

II. The commissioner to declare out of the funds remaining in his hands, one or more dividends, such dividends to be paid to such persons, in such amounts, and upon such notice, as may be directed by the court. All dividends payable under this paragraph shall be paid in accordance with the priority established under RSA 395:30.

5 New Section; Federal Approval. Amend RSA 395 by inserting after section 29 the following new section:

395:29-a Federal Approval. Notwithstanding any provision of RSA 395:27, 28 or 29 to the contrary, any deposit account in any institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or any other agency or instrumentality of the United States of America, may not be reduced without the consent of the Federal Deposit Insurance Corporation or such other agency or instrumentality.



6 Distribution of Assets. RSA 395:30 is repealed and reenacted to read as follows:

395:30 Distribution of Assets. Payments of dividends under RSA 395:19 and any other proceeds of the property of a closed or insolvent New Hampshire depository institution shall be distributed according to the decree of the court in the following priority:

- I. The payment of the costs and expenses of the liquidation.
- II. The payment of wage, salary and other claims of employees to the same extent such claims would be accorded priority under federal bankruptcy law.
- III. The payment of claims for deposit accounts including but not limited to "deposits" as defined in 12 U.S.C. section 1813(l), or as it may be later amended from time to time.
- IV. The payment of liens accorded priority under New Hampshire law.
- V. The payment of all debts, claims, and obligations filed in accordance with RSA 395:13, not accorded priority in the preceding paragraphs.
- VI. The payment of delayed claims in accordance with RSA 395:16.
- VII. The payment of capital debentures issued under RSA 384:14-a and any other obligations expressly subordinated to deposits and to claims entitled to the priority established in the preceding sections.
- VIII. Any funds remaining shall be divided in the case of a stock institution among the stockholders according to their respective interests or, in the case of a mutual institution, among the depositors in proportion to the respective amounts of their deposits.

IX. Interest shall be given the same priority as the claim on which it is based, but no interest shall be paid on any claim until the principal of all claims within the same class and all higher-priority classes have been paid or adequately provided for in full.

7 New Section; Open-Bank Assistance. Amend RSA 396 by inserting after section 10 the following new section:

396:10-a Open-Bank Assistance. If an institution is reorganized in an open-bank assistance transaction under 12 U.S.C. section 1823(c) or as it may be amended from time to time, no agreement, claim, counterclaim or defense involving the institution prior to its reorganization shall thereafter be valid against the institution, or any transferee or assignee thereof, if such agreement, claim, counterclaim or defense would not have been valid under 12 U.S.C. section 1823(e) or as it may be amended from time to time or any other applicable federal law against the Federal Deposit Insurance Corporation, or any successor federal agency, in its capacity as a receiver,

if the institution had been closed pursuant to RSA 395 or any other federal or state law instead of having been reorganized.

8 New Section; Prejudgment Attachments Prohibited. Amend RSA 384 by inserting after section 55 the following new section:

384:56 Prejudgment Attachments Prohibited. No attachment shall be issued against a bank, as defined in RSA 384-B:1, I, or its property before final judgment in any suit, action or proceeding is rendered.

9 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill allows the bank commissioner, upon approval by the superior court of a petition to appoint a federal regulatory agency as a receiving or liquidating agent. Upon the appointment of the federal regulatory agency as receiving or liquidating agent, the bank commissioner is authorized to issue an emergency waiver of all laws, rules, practices and policies with respect to the authorization to commence banking operations in this state as he deems necessary and prudent.

The bill also establishes priorities for payment of secured claims against and distribution of assets of a closed or insolvent New Hampshire depository institution.

Amendment Adopted.

Senator Shaheen offered a floor amendment.

SENATOR SHAHEEN: Everyone should have in front of you at this time a floor amendment which at this time I would like to move to be excepted to HB 704. As you can see it's very short. It basically says that proceedings for prejudgment attachments which are already instituted before the act becomes effective, shall be exempted from section eight of the bill.

SENATOR COLANTUONO: Senator Fraser, with regard to section eight of the amendment, page six, prohibiting prejudgment attachments. Could you explain a little bit further why that was put in and whether you think that applies to all actions, whether straight attachments against a bank who, when their defendant or whether also a trustee attachments are covered by that amendment. That seems to be a pretty broad change with current New Hampshire law and I want to know why that is there?

SENATOR FRASER: I don't know about trustees, but it certainly applies to the bank. I don't know about trustees.

SENATOR COLANTUONO: Could you address the reason why that was put in the bill?



SENATOR FRASER: My recollection, Senator Colantuono, is that that was put in at the request of the FDIC. What page is that on?

SENATOR COLANTUONO: Page six.

SENATOR FRASER: Section eight?

SENATOR COLANTUONO: Yes, section eight, at the end of the bill.

SENATOR FRASER: Yes, the reason that that was put in there was to become consistent with the federal law at the time of the public hearing and this is from the amendment. National banks are protected from prejudgment attachments, the same privilege that was recognized in this legislation for state banks. It's all on the federal level.

SENATOR COLANTUONO: Alright.

SENATOR COLANTUONO: The floor amendment is designed basically to protect attachments that have been asked for by the courts, but are pending prior to the effective date of this act. And that I suppose is good as far as it goes, but I have a very serious concern that we should be passing a law exempting banks from our attachment statutes and singling them out among all the other types of financial or commercial entities in this state. If a party has a claim against a bank and they're entitled to get an attachment under our current laws, I don't see the pressing need for doing away with that right, which is sometimes the only way a person can assure that they will get paid if they proceed and as I read this, I think this would also apply to do away with trustee attachments against banks which are situations where you might want to sue someone and you might want to attach their bank account or other funds being held by a bank. I see no justification at all in this bill to do away with that right, so I have a great concern about section eight. I guess I am not really speaking against the floor amendment, I am speaking against section eight in its entirety and perhaps someone could move to table this and we would be able to look at that.

### **Floor Amendment to HB 704**

1 Amend the bill by replacing section 9 with the following:

9 Applicability. RSA 384:56, as inserted by section 8 of this act shall not affect proceedings for prejudgment attachments instituted prior to the effective date of this act.

10 Effective Date. This act shall take effect upon its passage.

Floor Amendment Adopted.

Ordered To Third Reading.

**NOTICE OF RECONSIDERATION**

Senator Oleson served notice of reconsideration on SR 7, relative to the James Bay II project of Hydro-Quebec.

**SENATOR OLESON:** After voting with the winning side, I move that SR 7 be reconsidered and I ask my fellow Senators to vote yes.

**HB 409-FN-A**, an act establishing an industrial heritage commission and industrial heritage park fund and making an appropriation therefor. Economic Development committee. Ought To Pass With Amendment. Senator Cohen for the committee.

**SENATOR COHEN:** The committee recommends Ought to Pass on 409-FN-A. To establish an industrial heritage commission and an industrial heritage park fund and make an appropriation therefor. Recognizing that New Hampshire's industrial heritage is poorly preserved, inadequately understood and fails to enjoy a level of popular appreciation which to ensure its preservation and vitality this commission would locate a site at the former Amoskeag Mill complex in Manchester and it would be administered by consortium of private organizations with the assistance of state departments and divisions. And this bill simply sets up the commission that is amended to include a member from the AFL-CIO who organized it, felt that organized labor should be a part of the industrial heritage commission. It was a unanimous vote of the committee that it Ought to Pass.

**SENATOR HUMPHREY:** I have a question to Senator Blaisdell relative to the likely appropriation for this commission?

**SENATOR BLAISDELL:** I would have to say, Senator Humphrey, that there is no money in the bill itself.

**SENATOR HUMPHREY:** Is the Senator saying that the Senate need not worry that more than \$1 will be appropriated?

**SENATOR BLAISDELL:** I would have to say yes, Senator. I accept the bill when it comes down to us.

**SENATOR HUMPHREY:** Thank you.

**SENATOR J. KING** moved to have HB 409 Laid On The Table.

Senator J. King withdrew his motion to have HB 409 laid on the table.

**Amendment to HB 409-FN-A**

Amend RSA 19-D:1 as inserted by section 2 of the bill to read as follows:

19-D:1 Commission Established. There is hereby established the New Hampshire industrial heritage commission to consist of 17 members, of which 2 members, including the chairman, shall be ap-



pointed by the governor, 2 by the president of the senate, 2 by the speaker of the house and one by the mayor of Manchester. The commission shall also include the executive councilor of the fourth district, the commissioners or designees of the departments of education, transportation, cultural affairs, labor and resources and economic development and the director of economic development, the director of the division of parks and recreation, the director of the division of historic preservation, and one member appointed by the Manchester board of mayor and alderman. One of the governor's appointees shall be nominated by the New Hampshire Business and Industry Association and one shall be nominated by the New Hampshire AFL-CIO. Members shall serve without compensation for terms of 5 years, except that the terms of legislative appointees, the executive councilor and mayor of Manchester or designee shall not exceed their elected term of office. The commissioner of the department of resources and economic development shall provide administrative support to the chairman of the commission.

Amendment Adopted.

Ordered To Third Reading.

**HB 637-FN**, an act relative to insurance fraud. Insurance committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

**SENATOR COLANTUONO:** This bill for the first time establishes a specific crime of insurance fraud in the state of New Hampshire. Here before prosecutors would have to use various other sections of the criminal code such as theft by deception, fraud, perjury, or arson to get at people who commit insurance fraud. This was I believe, a request by the insurance department or the sponsors that worked very closely with the department. The amendment on page six, simply makes it clear that if the defendant is prosecuted under this new law, they can also be prosecuted for the same conduct under those other laws that I just referenced.

#### **Amendment to HB 637-FN**

Amend RSA 638:20 as inserted by section 1 of the bill by inserting after paragraph IV the following new paragraph:

V. Any person prosecuted under this section shall not be subject to prosecution under RSA 637, any other section of RSA 638, or RSA 634:1, III(a) for the same course of conduct.

Amendment Adopted.

Ordered To Third Reading.

**HB 485**, an act relative to living wills. Judiciary committee.

Inexpedient To Legislate For The Majority. Senator Colantuono for the Majority. Ought To Pass For The Minority. Senator Hollingworth for the Minority.

**SENATOR HOLLINGWORTH:** I would like to move Ought to Pass for the minority on HB 485. A recent decision by the Supreme Court has changed what would have been the statute in New Hampshire and made the action of this legislation most important. In the Nancy Cruzan case, the court ruled that a person has the right to refuse treatment and artificial sustenance and food and water. That plays counter to what we now presently have in New Hampshire under our constitution, whereby we forbid the removal of artificial sustenance; therefore our New Hampshire law is no longer in compliance with the decision by the U.S. Supreme Court. For that reason and for the reasons that this bill as drafted has met the agreement of all the people over the course of the summer, the Catholic church was involved, the medical profession, and the legislature to determine a way to address a few problems that had arisen in our living will legislation. It is no longer possible for someone to say as we used to do in the past, "doctor just do what you think is right" or "let my family decide" because they can no longer do that. The only one who can determine whether or not you should have artificial food and sustenance is yourself. If you do not make that clearly known, the doctor has no other choice, but to take and continue to put you on machines and other treatment. And as we saw in the Nancy Cruzan case, that can be devastating and be long term suffering and pain for all of us which many of us do not look forward to. So it is wise that we make the decision in advance and that is why the courts determine that we have the ability and as long as we make our wishes known, we may remove treatment and we may remove artificial food and sustenance, and this is precisely what this bill does. Also, in months coming before us, it is going to be necessary for everyone who is treated in our hospitals and nursing homes to have available to them, a living will or a durable power of attorney. And if we do not address that situation with New Hampshire statute and New Hampshire's wishes, we will have thrust upon us whatever is out there by other people, not New Hampshire's choice, and not New Hampshire's decision. I think that that is far from what we in New Hampshire would like to see happen. You will hear today that there is confusion about what unconsciousness is. What permanently unconsciousness is, and that is defined in the durable power, and that is the terminology that all parties during this long hot summer last year, determined was the right language to have in this legislation. To you and I, it may mean one thing, but to the medical profession



who is needed to carry out this act and to the nurses profession who all signed off on this act, they understand precisely what this language means. I think that pretty much sums up what I have to say, except to avoid pain and suffering that might result in prolonged illness in a hospital where we can no longer have our wishes known, I hope that you will support his legislation. We have passed on it many years in the past, but now it's time to clean up the constitutionality of it and to pass this into law.

SENATOR COLANTUONO: I would like to speak for the majority on HB 485. The majority of the committee felt that there are some serious defects in this legislation and before I begin to talk about what those are I want to make sure that everyone understands that unlike the durable power of attorney bill that we passed earlier in this session, this is not a situation where we are passing a new law to fix a perceived problem. We already have a living will statute in the state of New Hampshire. We have had it since 1985 or 1986. It appears to be working well, in other words there is no emergency need to pass this new amendment. This amendment is part of a nationwide effort of people promoting the so-called right-to-die. Basically, the key points in the amendment are similar to the durable power of attorney. The provision that artificial nutrition and hydration can be taken away from someone if they are in a terminal condition, a terminal illness. The other major change in this bill from current law sets out a new state in which a person can elect to have life sustaining treatment, including nutrition and hydration taken away from them. And that is a state called permanently unconscious, and there is an attempt made in this statute to try to define that. The committee majority felt that there were significant problems with both of those major changes. First of all, the taking away of nutrition and hydration literally causes death by starving and dehydrating someone to death and that is a process that was discussed at the durable power of attorney debate. It is a process which takes from 10 to 14 days, it's very painful and it's a very inhumane way to die. The other problem with that is that currently in the law, 137-H that we have now, the definition of terminal illness states that a person has to be, has to have death become imminent or facing imminent death. And there is no definition as to what is imminent. I thought that that meant that a person who is a day or maybe two days away from death would therefore be facing imminent death and you could take the tubes away, in which case I question why you need to take away nutrition and hydration, because a person would die from his other condition. At the hearing on the first living will bill that we heard in our committee, we got testimony that some doctors consider death within six months to be imminent. A doctor that I spoke with who called me, the

ethical director up at Mary Hitchcock up at Dartmouth told me that he considers, Dr. Calver, said that he considers anything up to a year to be imminent, and that is very frightening and scary to the committee majority to think that people will be starved to death when they are facing a full year to live in the hospital. The other problem with the definition of permanently unconscious, was best put in a letter that we received from a neurosurgeon from the Mary Hitchcock and I think that it is very important to note that not all of the medical community is in favor of this new legislation, but a doctor wrote us and said that permanently unconscious is not a medical term, it is not found in any neurology textbook, it's a sloppy term, presumably referring to chronical vegetative state. It's a made up term to avoid the question of consciousness. He set out various medical conditions which can appear to be permanently unconscious, but which are treatable and clearly aren't. Then he set out a case history of a woman who had a giant aneurism and had to undergo surgery and after the surgery she was in what would probably be considered permanently unconscious state under this bill, and her family asked him to discontinue her life sustaining treatment and he refused and two months later, she left the hospital in a perfectly normal state. Another major, major flaw in this bill, is that in changing the definition of sustenance, because under the original bill the compromise that was arrived at by the legislature, in consultation with various parties back in '85 or '86 there is a very careful compromise struck that food and water would not be taken away, that type of sustenance would not be considered life sustaining treatment, but what the drafters in the House did, in a very clever way was to say that we will continue that term that sustenance still will not be taken away, but will change the term sustenance to mean simply food and water taken by hand, normal eating and drinking. But this other form of sustenance, artificial nutrition and hydration can be taken away. The problem that that creates is that every single person and there have been thousands and maybe tens of thousands who have signed living wills under this law since it went into effect, knowing that sustenances would not be taken away and they wouldn't be starved and dehydrated to death, now we're subject to this new law and they are not even going to know about it and it's going to lead to a situation where we in the state of New Hampshire will literally be putting people to death against their will after the passage of this bill because of that change. On page four, the instruction form, the committee majority felt would lead to extreme confusion in emergency rooms. It says that in carrying out, it says that I realize that situations could arise in which the only way to allow me to die would be to discontinue artificial nutrition and hydration and in carrying out any instruction that I have given under this section, I authorize



that artificial nutrition and hydration not be started or if started be discontinued. And I defy anyone to be able to tell a doctor facing a patient who has been brought in by an ambulance in an emergency room in an unconscious state what that means and whether the doctor is suppose to start artificial nutrition and hydration or not. I would like to hope that most doctors obviously would, and try to sustain the life because the doctor is not going to know at first blush, whether the person is truly in a permanently unconscious state or not. Another major change that the committee majority was very nervous about is on page six. It has to do with the execution of the living wills. Right now under the law if a person is in a hospital or a nursing home, if they want to try to execute a living will in order to make sure that that person is competent to make this important decision in their life, the chief of the medical staff or some such term is required to witness that. Certain people in the hospital and the nursing industries didn't like that provision and they got it changed to simply state that the witness, any witness would suffice and no more than one witness may be the health care provider or such provider's employee, so you could have an orderly or a janitor or someone else be the witness and there is no provision, no protection here for people who are in a diminished mental state because they are in a nursing home or a hospital to make sure that the person is competent to sign such an important legal document. And that is a very scary thing because we know that these forms are going to be thrust in front of elderly, frail, a lot of times, uneducated people the minute they walk into a nursing home or hospital. The final comment on page ten, the section of the law that says that nothing in this chapter shall be construed to condone, authorize, or approve assisted suicide, mercy killing, or euthanasia. There is a provision added to those who are in a permanent unconscious condition. The committee majority recognizes that any bill which would have to state that what it allows is not an assisted mercy, assisted suicide, mercy killing, or euthanasia obviously raises some questions and that was the part of the reason why the Governor originally vetoed this bill back in 1983 and 1986. But it's a logical inconsistency to say that killing a person who is in a permanently unconscious condition is not assisted suicide, mercy killing, or euthanasia, because that is exactly what it is. So for those reasons, the committee majority recommends that the full body leave the living will statute the way it is because it's working well and to reject these amendments.

Recess.

Senator Currier in the Chair.

SENATOR HOLLINGWORTH: Senator Colantuono, wasn't it the testimony that we heard that starvation was not starvation, because

in fact, the only removal of food or sustenances would be that which is artificially given and that would . . . still people were able to take any other food that they wanted to? And in fact, that there was more pain and suffering from having food when people were not able to digest it through their system and that in fact, what it meant was not just an intravenous needle if it was artificially, it meant the stomach having to be opened and food forced into the stomach because after a few days the veins break down and the only means in which you can get that food in if people want to have it is by force feeding? Wasn't that the testimony?

SENATOR COLANTUONO: I believe that, I think.

Recess.

Senator Dupont in the Chair.

SENATOR MCLANE: It's hard to know where to begin in discussing the opposition to this bill, but perhaps I might set the stage by saying that this bill has been in effect for over four years in New Hampshire now and I have never heard of any case in which the will of the person and the good professional judgment of the doctor had not prevailed. And so that most of the objections to the bill come from theoretical situations, the janitor is going to sign the living will and everyone knows: Well I laughed the other day to read that the two janitors were the commencement speakers at a high school graduation in New Hampshire, maybe the janitor would be a good one to sign it. Anyway we didn't write the bill to say who couldn't sign it. But there has never been any indication that the change in that section of the bill came about because we had written in that it had to be the superintendent of the facility and it turned out in a large facility such as Mary Hitchcock there was no allowance for who signed in the middle of the night if someone wanted to write one at that time. And it was just too much for a superintendent for a big hospital. But I think that people are looking at straws when they come up with such objections to a bill which has been working effectively and well in the state of New Hampshire for a long period of time. And it is necessary in this day and age where you can live for 20 years hooked up to tubes and by the definition, permanently unconscious. I think it might, I've just had a discussion with Senator Humphrey, about the English phraseology, but I think it might be helpful if I read the phrase permanently unconscious, the definition that is in the durable power which you have already passed, let me remind you. "Permanently unconscious" means a lasting condition, indefinitely and without change in which thought, awareness of self and environment and all other indications of consciousness are absent as to be determined by the attending physician and a consulting



physician. Now if anyone can show to me that that has been misused over the four years that it has been in effect, I would be more conscious . . . but the medical society, the nursing society, the nursing home association, the council of churches, the on and on, all these groups have supported this bill. One of the reasons for this change, is the new compromise with the Catholic church, and I believe that Senator Hollingworth, made that very clear. This bill was drafted by the attorney for the Catholic church to make sure that it complied with their wishes which is that you should never withdraw hydration nutrition unless the person had signed a statement saying that their doctor could make that decision and that is how clear it is. And that is what the bill says and I think that those who worry about the problems with this bill, there is more than one Christian doctor. I avoided the word far-right Christian because, but I would now amend that statement, because I had been chastised for using that. There is one doctor who has written in opposition, out of the 300 doctors in Hanover. I stand corrected. This bill has been in effect, it has been worked out by many, many people, it works and I would urge that you pass it.

SENATOR PODLES: Senator McLane, would you put an Alzheimer's patient in the category of permanently unconscious?

SENATOR MCLANE: Absolutely not. An Alzheimer's patient and as I said before, this has never come up that someone is denied hydration nutrition if they are not permanently unconscious. And unconscious does not involve the sort of reaction that you would get from an Alzheimer's patient.

SENATOR PODLES: Would you agree with me that an Alzheimer's patient has a lasting condition indefinitely and without change in which thought, awareness of self and environment and so forth, that it fits that patient, that this description exactly fits that patient?

SENATOR MCLANE: Absolutely not. And I believe that doctor Culver came down and spoke on this, that the head of the Nursing Association came down and spoke on this. It is a lasting condition in which thought, aware of self and environment, and an Alzheimer's patient has often complete aware of self and environment. It is not descriptive.

SENATOR HUMPHREY: Senator McLane, is it correct that Senator Colantuono alleges that enactment of this bill will have the effect of changing the terms of existing living wills?

SENATOR MCLANE: I'm only the wife of a lawyer, I'm not a lawyer, but I think I'm right and he's wrong and this is why: an old living will under the compromise made with the Catholic church six years

ago and this was a compromise with them that we worked out very carefully, includes life sustaining procedures to be hydration and nutrition. So therefore, under the old durable power you could not remove hydration nutrition unless the two doctors decided that that was it. It couldn't be at the wish of the patient. Now under this new thing, a new living will would allow you to make that decision. And so my assumption is that the old living will would not include that part about hydration nutrition.

SENATOR HUMPHREY: I'm sure that the Senator will agree that it's an important point that the Senate is being asked to change the terms of existing living wills, that we ought to know about it before we do it.

SENATOR MCLANE: And we have already done it, is my point, in the durable power which is the same thing.

SENATOR HUMPHREY: The Senator is not answering the question. We have on our books already, New Hampshire statute, have we not, a living will statute?

SENATOR MCLANE: Exactly.

SENATOR HUMPHREY: The Senator referred to it and said that it's not exactly the Senators' words but, she said that it has been working well.

SENATOR MCLANE: Right.

SENATOR HUMPHREY: The Senator said that. It has been working well, so why are we being asked to change it?

SENATOR MCLANE: I made clear for two reasons: First of all, to change the fact that it is only the superintendent that can sign a living will in a hospital. And secondly, it changes the title from terminal care document to living will. And thirdly, it allows, it does not define hydration nutrition as an invasive procedure that may be removed without the decision in the document and it gives an example of the document. In the document which the person signs that gives that permission. On page four of the bill is part of the document and they must circle yes or no. In carrying out any instructions I've given under this section, I authorized that artificial nutrition and hydration not be started or if started be discontinued and you have to mark yes or no. Many people will mark no. Many people will mark yes.

SENATOR HUMPHREY: Well, Mr. President, I'm not getting an answer to the question.

SENATOR MCLANE: I'm trying my best, phrase it again?



SENATOR HUMPHREY: Senator, am I not correct that this bill will change statutes such that for example: an intravenous administration of fluids or nutrition will now be considered invasive procedures, whereas under the terms of existing living wills that is not the case.

SENATOR MCLANE: That is exactly correct.

SENATOR HUMPHREY: Then the Senator is admitting that this bill will change important terms of those living wills which are now extant?

SENATOR MCLANE: It will not change those living wills that are now extant, and the reason is: that it says that you cannot instruct the doctor to remove hydration nutrition unless you sign a form which says this. And the old living wills don't have it and therefore, that form isn't there, so therefore they are not instructing their doctor to remove hydration nutrition.

SENATOR HUMPHREY: Senator Colantuono, can the Senator enlighten us on this point, from his point of view?

SENATOR COLANTUONO: Well, from my point of view there is a very important technicality in the law presently which is remaining in the amendment and that is that the living will that is executed by any particular individual does not have to be the same as the form that sets out in the statute. It has to be substantially similar to, but it doesn't have to be identical to it. So for example, there is nothing in the law or in this amendment which would require that option choice to be in a will, a living will to make it legally enforceable. And the other problem is that under existing living wills, the doctor is told by the patient that the patient does not want life sustaining treatment to continue if they are on a permanently or inter-terminal condition. Under the old law, sustenance which would include artificial food and water was by definition left out of life sustaining treatment, but this amendment completely changes that and is no longer left out by definition. So the words in the existing living wills by definition now, once this passed, no longer exclude artificial nutrition hydration. So that any doctor would be perfectly justified in removing artificial nutrition hydration from a patient after this bill has passed and protected by the provisions of this bill on a patient who has an existing living will.

SENATOR HUMPHREY: The Senator is a lawyer, is he not? And a member of the Judiciary committee?

SENATOR COLANTUONO: I am a member of the Judiciary committee and my profession probably has nothing to do with it.

SENATOR HUMPHREY: Well, we rely upon our colleagues on the respected committees to give us their expertise, lend us their expertise. Is the Senator saying as an attorney, and as a member of the Judiciary committee, that it was his opinion, studied opinion that the enactment of this bill will in an important way, change the terms of those living wills that are now existence.

SENATOR COLANTUONO: Yes.

SENATOR HUMPHREY: And that a physician under the terms of those living wills now existence, referring to this new statute if it is enacted, may deprive a person of nutrition and hydration when that person hasn't properly authorized such deprivation.

SENATOR COLANTUONO: I think I said that when I said that we will literally be putting people to death against their will in the state of New Hampshire if we pass this.

SENATOR HUMPHREY: Someone who signed a living will document in the past, in the belief that he or she might receive something as simple and routine and noninvasive as an intravenous drip may now without his knowledge be deprived of such medical treatment, such sustenance and hydration?

SENATOR COLANTUONO: That's my opinion. .

SENATOR SHAHEEN: Senator Colantuono, you are an attorney, we all know that. Would you acknowledge that this is only your interpretation of the law or bill?

SENATOR COLANTUONO: Absolutely. If this is a question, it will definitely be taken up by the Supreme Court. I think as our function here is to pass laws that don't have these questions. To pass good legislation that is ambiguous and doesn't lead to these problems.

SENATOR SHAHEEN: Senator Russman, since you are our other practicing attorney in this body at this point, could you respond to that same issue?

SENATOR RUSSMAN: Well I would say this: that I can't imagine that any practicing physician would risk the inevitable lawsuit. The inevitable possible loss of his licensure in terms of looking at a date that predated the law as passed and taking somebody and stop giving him hydration or sustenance. So I think it's almost like an ex post facto type thing. The law is passed after all these aside and all the people are in the position and I think that there certainly is a area for people, reasonable men and women and reasonable attorneys to disagree with the application as it would effect the people that are currently under this situation. I don't think that people are going to



arbitrarily go around and start pulling the plug on people that have already signed that and the situation, I just don't see that happening and I don't see the threat.

SENATOR HOLLINGWORTH: Senator Colantuono, do you recall the Cruzan case, the Nancy Cruzan case?

SENATOR COLANTUONO: Yes.

SENATOR HOLLINGWORTH: And isn't it not true that, or isn't it true, excuse me, that the court ruled that a person has the right to refuse treatment and sustenance while they were conscious and as long as they made their reasoning known that they, too, could have it after they were unconscious, is that not true?

SENATOR COLANTUONO: Well I have heard the Cruzan case. And I have found nothing in the Cruzan case first of all, that says that it's unconstitutional if the states don't pass this law. What the Cruzan case said was that the constitution of the United States says nothing about this whole issue. And it's incorrect to leave anyone to the impression that the Cruzan case requires passage of these laws. The court in Cruzan threw the case back to the state of Missouri and said look this is a state law problem and you fix it under your existing state laws and it's up to state legislatures to make policy decisions, it's not a constitutional question.

SENATOR HOLLINGWORTH: I guess I didn't make myself clear. Did not the court say that a person has the right to make their decision known whether they want to have food and treatment, and they may say that and they may tell a doctor that they do not want to have food and sustenance, is that not true?

SENATOR COLANTUONO: As I recall the Cruzan case, as I just stated, it said that it's not a question of rights, it's a question of policy and it's up to legislatures to decide. The legislature decides what the right is in each state.

SENATOR MCLANE: Senator Colantuono, I do know enough about the law to know that there is an ex post facto law. If you pass a bill which says that you may not withdraw hydration nutrition without clearly stating and marking with a yes or no whether you can withdraw hydration nutrition. What effect would that have on a living will document signed five years ago that doesn't have that in. In my point, nothing. What your saying is, from here on in, if you want to withdraw it, in both the durable power and the living will, you have to clearly state and I believe the durable power uses those words, clearly state, so I feel that it is not in any way affecting those old living wills. If people have an old living will they darn well better get around to changing it.

SENATOR COLANTUONO: Well I just simply don't agree with your analysis, ex post facto law relates to the criminal law not the civil laws. And the problem with the drafting of this bill is that the change requiring the person to circle the yes or no only comes in the suggestive form, it doesn't come in the body of the statute. And because of the fact that the suggestive form is not a required form it really has no legal efficacy.

SENATOR MCLANE: Senator Colantuono, in all of the rhetoric from the right to life society and others who are the only ones that I could find in opposition to this bill, have you found one instance where they can prove in the state of New Hampshire that the living will that has been in effect for the last four years has in anyway harmed any person that they have documented?

SENATOR COLANTUONO: Well, I think that I started my report by stating that the law presently in effect seems to be working well, and that's why we don't need a change. I think they're more concerned with what's coming down the road and they're also more concerned with cases that would have been affected by this new law. For example I cited the young boy, who is 14 years old from Manchester, who was hit in the head by a hockey puck. He was brought to the hospital and was not expected to live. He was by medical definition, comatose and in a terminal condition. If he had been older and had one of these living wills he would have been allowed to die. Well just last week, I saw him on television walking into the high school and getting applauded by his fellow students because he had totally recovered.

SENATOR HUMPHREY: Senator McLane, I am looking at page three of the bill, roman numeral VII, the definition of permanently unconscious, which says that permanently unconscious means a lasting condition indefinitely and without change. Well I'm assuming that the word indefinitely refers to the word unconscious, it modifies the word unconscious, is that right?

SENATOR MCLANE: I said to you before that it is a phrase. It is a modifying phrase and it must be read indefinitely and . . .

SENATOR HUMPHREY: Does the word indefinitely refer to the word, modify the word unconscious?

SENATOR MCLANE: Yes, indefinitely and without change.

SENATOR HUMPHREY: Indefinitely modifies the word unconscious?

SENATOR MCLANE: Yes, and my point is, and I go back to the case of the 14 year old boy in Manchester. There has been no evidence that any doctor has tried to kill off someone who has hope of



recovering and that is the point. And the point in that is in the definition of permanently unconscious, two doctors, probably one a neurologist would have to, and Doctor Culver explained this so clearly, if you cut off an arm that doesn't grow back, if you have an injury to the cortex it doesn't grow back. And so they look at the cortex and whether you have a flat brain wave, then you are permanently unconscious and that is how he described it. And I think that I just go back to saying, if you can show me evidence that it has been misused, then I would be more sympathetic to what I assume is just an alterable opposition and nitpicking.

SENATOR HUMPHREY: Mr. President, I would like to address the bill. Well first, this is hardly the matter that fits the description of nitpicking. When we are talking about human life, the sanctity of each individual human life. If the Senator views that kind of debate as nitpicking, then I can understand why she so easily supports this bill. The bill changes existing law with regard to the living will statute. The principal change is that it now classifies intravenous, hydration and intravenous nutrition for example, simple, common place, noninvasive procedures as invasive procedures. Under this bill the authorities will be free to allow a person to suffer if not die from dehydration and starvation. When there is a simple expedience to alleviate the suffering and of course stall the death. Mainly, intravenous feedings and intravenous hydrations for example. So that is an important change. Just be aware of what we are doing. We are taking another big step towards euthanasia. It is a significant change. The other problem that I have with this bill, Mr. President, is that it provides a very subjective definition, indeed a contradictory definition of permanently unconscious. It says that permanently unconscious means a lasting condition, indefinite. You can't have it both ways. Is it permanent or is it indefinite? Will the Senator define indefinite? If she won't, I will define it using the help of the American Heritage New Collegiate Dictionary, which says that indefinite means unclear, vague, lacking precise limits, uncertain, undecided. It doesn't mean definite, it means indefinite. It doesn't mean permanent, it means indefinite. You can't have a description that says that something is a definition that says something is both permanent and indefinite. Does the Senate care about its reputation? That is double speak. That is news rhetoric. Those are contradictory terms defining the term in this bill, permanently unconscious, indefinite. Well what physician can describe, can define indefinite or what Senator can define indefinite? This is gibberish. This is really sloppy, sloppy work in the most sensitive areas, Mr. President. And for those reasons, I am going to oppose this bill and I urge my colleagues to do likewise.

Senator Russman moved the question.

Adopted.

A Roll Call was requested by Senator Humphrey.

Seconded by Senator Podles.

Question is on the Minority report of Ought to Pass.

The following Senators voted yes: Oleson, W. King, Heath, Fraser, Hough, Currier, Roberge, Blaisdell, Bass, Pressly, McLane, Russman, St. Jean, Shaheen, Hollingworth, Cohen.

The following Senators voted no: Colantuono, Podles, Humprhey, J. King, Delahunty.

Paired Votes: Senators Disnard and Nelson.

Yeas: 16

Nays: 5

Ought To Pass Motion Is Adopted.

Ordered To Third Reading.

**HB 653**, an act relative to defense and indemnification of state officers and employees. Judiciary committee. Ought To Pass. Senator Russman for the committee.

**SENATOR RUSSMAN:** This bill tries to clarify and tie down what is the official duty of a legislator or a meaning in terms of the types of different things that they might be engaged in when they would be represented by the attorney general or in fact it was the attorney general that would sue, whether the Governor and Council would choose to be involved with that. So it is a bill that needs to be passed to try to clarify that.

Adopted.

Ordered To Third Reading.

**HB 661-FN**, an act allowing annulments of criminal records of persons who served a term of imprisonment. Judiciary committee. Inexpedient To Legislate. Senator Podles for the committee.

**SENATOR PODLES:** HB 616 would make two major changes to our existing annulment law. The bill makes it possible for a person who served a term of imprisonment and a person under 21, sentenced to a suspended sentence to apply for an annulment of his record of criminal conviction. The Police Association opposed the bill and the committee recommends Inexpedient to Legislate.

Committee Report Adopted.



**HB 701-FN**, an act relative to protecting personal privacy. Judiciary committee. Inexpedient To Legislate. Senator Russman for the committee.

SENATOR RUSSMAN: Basically on 701 a lot of us on the committee I think, felt that in our hearts that we would like to see legislation such as this passed for the sake of privacy. But our heads told us that given the large number of exceptions being credit bureaus, retail banks and then there was talk of landlords, insurance companies, and utilities. We even heard from blood banks that use social security numbers and that it really wasn't a practical way to go in trying not to use a social security number system. So given that, we ask that you vote Inexpedient to Legislate on this piece of legislation.

Committee Report Adopted.

**HB 771-FN**, an act relative to sentencing and parole. Judiciary committee. Ought To Pass With Amendment. Senator Colantuono for the committee.

SENATOR COLANTUONO: This bill was essentially gutted in the House and transformed into a bill that was requested by the Governors office in four parts. The committee believes that two of those sections were not appropriate amendments to current sentencing and parole laws. So we have stricken the first paragraph of the bill, and the third paragraph of the bill, and have left in the amendment which is on page six of the calendar. Just the second paragraph and the fourth paragraph which make very minor changes. The second paragraph makes a minor change in what the purpose of parole is and the fourth paragraph reinstates a law that we used to have and it was repealed several years ago for reasons which no one knew, prohibiting a person who has their parole revoked from re-applying for parole within three months for most offenses and six months for the serious offenses.

#### **Amendment to HB 771-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to revocation of parole and reparole.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose of Parole. Amend RSA 651-A:1 to read as follows:

651-A:1 Purpose of Parole. It is the intent of the legislature that the state parole system provide a means of **supervising and** rehabilitating offenders without continued incarceration and a means by

which prisoners can be aided in the transition from prison to society. It is also the intent of the legislature that the policies, procedures and actions of the adult parole board and the department of corrections relative to the administration of this system [demonstrate recognition of] **emphasize** the need to protect the public from criminal acts by parolees.

2 New Paragraphs; Revocation of Parole; Reparole. Amend RSA 651-A:18 by inserting after paragraph III the following new paragraphs:

IV. Prisoners whose parole is revoked under this section shall not be eligible for reparole for a period of at least 3 months.

V. Prisoners whose parole is revoked under this section and who have been paroled from a sentence for violating any of the following statutes, shall not be eligible for reparole for a period of at least 6 months: RSA 630:1-b, second degree murder; RSA 630:2, manslaughter; RSA 631:1, first degree assault; RSA 631:2, second degree assault; RSA 632-A:2, aggravated felonious sexual assault; RSA 632-A:3, felonious sexual assault; RSA 633:1, kidnapping; RSA 634:1, arson; RSA 635:1, burglary; RSA 636:1, robbery; RSA 642:9, assaults by prisoners; RSA 651-A:7, 8 or 9, when the crime was psychosexual murder as defined in RSA 651-A:10; RSA 318-B:26, I and II, penalties; and RSA 159:3, convicted felons.

3 Effective Date. This act shall take effect January 1, 1992.

### AMENDED ANALYSIS

The bill changes certain provisions regarding application for reparole after revocation of parole.

Amendment Adopted.

Ordered To Third Reading.

**HB 147**, an act relative to the information required on declarations of candidacy, primary petitions, and affidavits for qualifications of candidates. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill amends the forms for declaration of candidacy, primary petitions, and so forth, requiring that if a candidate is holding offices that are incompatible with each other or if that individual is a federal employee and violating the Hatch Act that says that on the declaration so that the candidate does not file anyway causing confusion later on. The amendment requires additional language to be put on the petitions which states that if the candidate is planning to exceed the spending limitation that it so states on the top of the petition. The committee urges the Senate's support of the committee report of Ought to Pass as Amended.



SENATOR HEATH: Senator Bass, I am a little alarmed at the language in this. On page seven of our calendar today, is the language that mandated to be on the petition for the primary. And it says this candidate does not agree to limit campaign spending according to amount set by state law and as a result, must submit these petitions. If that language, that petition with that language were simply printed as is and circulated by the opponent, I think the lay person who votes would look at that as if that candidate had somehow violated the law which in fact the candidate hadn't, they simply made a choice. I think that could influence an election in the last week of campaigning. I don't mind letting the public know that they have chosen one option over the other with the explanation of what the options are, but there is a subtle suggestion in here that they have violated the law and without any explanation which an opponent might intentionally not give. I think a person might be very crippled by the circulation of that with that language. Particularly the language after affix, that suggested that he had not agreed to an amount set by the law. And I think the set by the law is where my objection is. I'm wondering if you would see fit to change that language before we pass this?

SENATOR BASS: Senator Heath, in the first place the language that would be placed here is accurate. The state law sets spending limitations. The question is to whether or not the petition language itself does not discuss anything that is not exactly what is required by law. If the language is not added to the petitions, then you would have the opposite problem which is a potential existing for candidates to file for office and request petitions for reasons other than those which are the real reasons for submitting those petitions and that's just as bad.

SENATOR HEATH: Senator Bass, but wouldn't it be better to outline the two options, making sure that anyone reading it would understand what the options were and simply have the candidate check off the option of choice?

SENATOR BASS: Senator Heath, in my opinion that would be too unwieldy, petitions are not very big. I don't think that you could ever agree on language that would discuss options, it would be subject to exactly the same concern that you already have expressed with respect to the existing language that is proposed in the amendment.

SENATOR HEATH: But Senator, have you no concern that there is coercion in those words. That it goes beyond the person simply taking the risk that the public understands that they have not subscribed to those limitations and therefore, they have raised a larger kitty or spent a larger kitty than the other candidate?

SENATOR BASS: No, I don't think it raises that concern, Senator Heath.

SENATOR HUMPHREY: I think Senator Heath has raised an important point and I think that he makes a modest, reasonable request. It is, after all, the constitution which requires that a candidate be able to spend whatever amount of money he or she chooses. That is a basic first amendment right. Does anybody care about the constitution, the first amendment? Each of us has the right to spend whatever we damn well please under the constitution. And if that weren't the case, then when this spending limitation was enacted, there would be no exceptions. So the legislature was forced under the constitution to lay out alternative ways that one can offer himself as a candidate. One can choose under the first amendment to spend whatever one chooses to spend or one can voluntarily submit to these spending limits in return for certain other favors. Now to beat up on those who choose to exercise their first amendment rights by forcing him or her to print damaging material on his or her petition, seems to me going too darn far. What's wrong with the electoral process, I haven't seen one race where there was a candidate not limiting himself where that wasn't raised as an issue by his opponent. It's out there to be used as an issue if it's legitimate, if it's serious enough. But to force the candidate who chooses to exercise his first amendment rights to print these damning these materials on his petition is going to far. I think the Senator is correct, we ought to make it balance. If the will of the Senate, the judgment of the Senate is that we ought to have some kind of disclaimer on the petition, then let's make it a balanced disclaimer. Let's make it clear that every candidate has the right under the first amendment to spend anything he chooses and then you can rub it in if you like. But at least make it balanced and fair. So I urge the Senate to either put this aside and perfect the language of the disclaimer or to defeat it.

SENATOR MCLANE: Senator Humphrey, isn't it true though, that this legislature overwhelming passed in the last session a campaign finance bill?

SENATOR HUMPHREY: I believe that is correct, but so what?

SENATOR MCLANE: And I guess my second question would be, do you think it would be a legitimate thing for a candidate to offer a petition to someone saying, and I've heard this happens and this is the only way that I can get on the ballot when the real truth is that that person has refused to follow the campaign finance law and that is why they need the petitions?

SENATOR HUMPHREY: Well Senator, if there is ever misrepresentation in campaigning it becomes legitimate ammunition in the



hands of an opponent. Trust the people. Trust the process. You can't micro-manage every last facet of the electoral process. In any event this is unfair to those who choose to exercise the first amendment rights as it is now drafted. I urge the Senate to insist on something more balanced and fair.

SENATOR BASS: Mr. President, I have to respond to Senator Humphrey's comments. I don't really think that the language is necessarily unbalanced. I think that one of the worst problems that we had in the last election, during the first cycle of this bill was in fact, misrepresentations that were made by candidates who wish to exceed spending limitations with respect to why they were trying to get those petitions. And I would point, for example, to a letter that was sent by a candidate for state Senate that said, and I quote "in order to qualify for the ballot, I need to gather 500 signatures from registered republicans". Well that isn't really the situation. The real situation was that in order to exceed the spending limitations, in order to spend more than \$15,000 which is what we had determined was a legitimate amount and placed into law, and in a voluntary fashion, these petitions were collected on the premise that it was a litmus test to get your name on the ballot in the first place. All this amendment is, a truth in advertising amendment. It isn't going to change the requirements of law one bit. It's simply going to make the petitions say the reason why you are asking for them in the first place. I urge the Senate's adoption of this amendment.

SENATOR HEATH: I rise in strong opposition to this. You know we have a lot of laws in the court and we have a lot of options in those laws and we don't suggest in any other public document that I have ever seen that we are breaking the law by choosing one option over another. That language clearly makes it sound like a person, because they have chosen not to go the limitations, and by the way, I subscribed to the limitations in my last election. The only one where that was an option. This candidate has not agreed to limit campaign spending according to amounts set by state law. It implies that if you don't agree to the limit that you are breaking the law. And it, that is going to be a fix afterwards. It's going to look to anybody who sees a copy of it, as if somehow your petition for candidacy was in violation of the law. And all you have to do is circulate that to people who have no idea of the complex campaign laws that we have enacted and you've got a different kind of prejudice. I don't mind accepting if I ever go for more than the campaign spending suggested limit, they are suggested limits, they can't be otherwise. I don't mind my opponent saying that I didn't subscribe to the limitation option. But I do mind my opponent circulating something that looks like an official document, that is in fact an official document that suggests that I am

breaking the damn law. And I would urge all of you to have some consideration for fairness and have some consideration for this process that we enacted in good faith that said is an option. We adopted that. But this clearly is an attempt at intimidation of the person who chooses one of the two choices. I think that this would endanger the whole law in terms of a court case, because I think now you are pushing the constitutional inequality clause a far piece and I would suggest that you could end up with having to hold reelections based on this after you get this thing enacted if it is enacted. Thank you.

SENATOR COLANTUONO: Senator Bass, I noticed that this is an amendment to the original bill from Representative Riley. Was the amendment her suggestion or was she consulted by the amendment or do you know her position?

SENATOR BASS: No.

SENATOR COLANTUONO: Whose idea, if I may ask, was the amendment?

SENATOR BASS: Pardon me?

SENATOR COLANTUONO: Whose idea was the amendment?

SENATOR BASS: It was mine and three other members of the committee who voted in favor of it. Senator Colantuono, just as any other amendment is brought forth by any other member of the Senate with any other bill in committee.

SENATOR COLANTUONO: Yes, I know that. I just wanted to know who it was. Because looking at the last election cycle, I saw the major problem as people who claimed they were going to follow these spending caps and then they didn't, so is there anything in this bill or in the amendment or in any other bills here to address that problem?

SENATOR BASS: That, Senator Colantuono, is an excellent question. That issue is, I'm working on that issue right now in a bipartisan fashion in two areas. Number one, to redefine the definition of candidate as being an individual who has expended in excess of \$5,000 within the three month period before the filing deadline and to create an enhanced penalty provision for candidates who agreed to the spending limitations and then subsequently exceed them by more than 50 percent. That we may see this this year, we may work on it during the summer, but I am trying to get something out in that area to address those problems as well, and furthermore; we also have SB 195 which you may recall addresses some other problems relating to the influence of independent committees in the state. So there is nothing to be fearful of.



SENATOR HUMPHREY: Well, Mr. President, I don't want to get off this subject. I feel obliged to say this. But Senator Bass was much a gentlemen not to say who signed that letter which he quoted, it was me. It was a letter that I sent to supporters asking them to sign a petition and some who opposed my candidacy felt that the letter was not quite as forthcoming as it might have been and they tried to make a campaign issue of it and it didn't catch fire. So the people made their judgment on that basis. But let me ask you to think about the certain kinds of circumstances that can develop. When this resident of New Hampshire announced that he was going to run as a candidate for the Senate of New Hampshire, not to flatter myself, but for obvious reasons that attracted the interest of national groups. I wanted to fire a warning shot across their bow, that if they came in here by direct or indirect means and started dumping a lot of money into my opponents race, that I, at least under the law, had the capability of fighting fire with fire. And so I saw deliberately, not to limit myself, because I felt if I were limited then they would say uh huh, there is Humphrey, he's limited, let's go get him by direct means and indirect. Now that's one kind of circumstance that can arise, perhaps legally. But think of something more common, supposing someone who's virtually unknown seeks to challenge us, or the Governor, or a member of the House, but let's just take the Senate for example. Let's take the example of someone who's been in the Senate for a number of terms and is very well known, you might say entrenched, and some unknown seeks to run against him, each spends the same amount, who is going to win? The campaign law in that respect is stacked in favor of the incumbent and against the challenger. Don't make it worse by forcing those challengers who seek to exercise their first amendment rights to print this kind of thing on their petition which makes that candidate sound like some kind of a criminal. It only makes the situation worse.

SENATOR COHEN: Senator Humphrey, I certainly would support, did support the right to have a petition go around and stand by the campaign voluntary spending limit. Myself, I was involved with a U.S Senate campaign who I also took the petitions around. People often asked me what the purpose of this was. Do you personally have a problem with simply letting people know what the purpose of your petition is, it's not intimidation or any of the things that you are suggesting?

SENATOR HUMPHREY: Not at all. Not at all. Providing that it's printed in a way of a disclaimer, is balanced. It makes it clear, and I always did when asked personally. But I am exercising my first

amendment rights that the state legislature provided every citizen this alternative. That is all we are asking for here, is balance. Not an accusatory disclaimer, but a balanced disclaimer.

SENATOR COHEN: Senator Humphrey, do you not believe people should know what they're signing, understand what it is that they are signing?

SENATOR HUMPHREY: All the more reason to make it clear, Senator. All the more reason to have it balanced.

SENATOR SHAHEEN: Senator Humphrey, what would you suggest for a balanced statement?

SENATOR HUMPHREY: Well, I think Senator Heath made some excellent recommendations, but if the Senator's question is serious, we could say that this candidate for example, this candidate as his or her right under the state law, the federal constitution has not agreed to limit campaign spending according to the amounts of etc. etc. That is an example.

SENATOR SHAHEEN: Senator, my question was serious.

SENATOR HUMPHREY: Will the Senator join me in offering such an amendment?

SENATOR SHAHEEN: This is probably a statement. I certainly understand what you're saying about making sure that on the one hand we want to make sure that the people understand that the candidate has not done anything wrong. On the other hand, I do believe that one of the problems that we have gotten into in the political arena is that campaign spending is out of control and one of the reasons for this law, originally, to limit campaign spending was to try and address that whole issue and that anything that we can do to encourage candidates to abide by the campaign spending laws is important for us to do. So I guess I'm, you know I think that maybe there is a bit of a contradiction there, on the other hand I didn't necessarily respond to that in the same way that you did. And I'm one of those people who had a problem because I over spent the limit. I understand that there are very severe penalties for doing that and I am willing to go ahead and pay those penalties, because I didn't do what the law required me to do. And it was advertent that I didn't do it. But it seems to me that if we are not going to abide by the spending limit, then we ought to say O.K. we are not going to do that, but at the same time we are willing to go along and take the consequences at that. That was a statement.

SENATOR HUMPHREY: Senator Bass, is the Senator willing to attempt to modify this language to make it more balanced?



SENATOR BASS: Yes, I am.

SENATOR HUMPHREY: Then whatever is the Senator's pleasure, just so that we don't dispose of it right now. I thank the Senator for his flexibility and fairmindedness.

### Amendment to HB 147

Amend the bill by inserting after section 1 the following and re-numbering the original sections 2-5 to read as 3, 4, 5, and 6 respectively.

2 Information Required on Certain Primary Petitions. Amend RSA 655:20, II to read as follows:

II. Any person qualified to run for office who does not, pursuant to RSA 664:5-a, voluntarily accept the expenditure limitations set forth in RSA 664:5-b shall, in order to have his name printed on the primary ballot of any party, in addition to the filing fees prescribed in RSA 655:19, file with the appropriate official the requisite number of primary petitions made by members of the party, together with one written assent to candidacy. **If a person is required to file primary petitions under the provisions of this paragraph, the primary petitions which he files shall contain the following language in bold print at the top of each petition in addition to the language required in RSA 655:21: This candidate has not agreed to limit campaign spending according to amounts set by state law and as a result must submit these petitions.**

Amend the bill by replacing section 3 with the following:

3 Additional Information; Primary Petitions. Amend RSA 655:21 to read as follows:

655:21 Form. Primary petitions shall be made in the following form:

State of New Hampshire

County of \_\_\_\_\_, ss.

City (Town) of \_\_\_\_\_

I do hereby join in a petition for the printing on the primary ballot of the name of \_\_\_\_\_ whose domicile is in the city (town) of \_\_\_\_\_ (ward, street and number, if in a city), in the county of \_\_\_\_\_, for the office of \_\_\_\_\_ to be voted for on Tuesday, the \_\_\_\_\_ day of September, 19\_\_\_\_, and certify that I am qualified to vote for a candidate for said office, that I am a registered member of the \_\_\_\_\_ party, and am not at this time a signer of any other similar petition for any other candidate for the above office; that my domicile is in the city (town)

of \_\_\_\_\_ (ward, street and number, if in a city),  
 in the county of \_\_\_\_\_. **I certify that to my  
 knowledge the above-named candidate is not a candidate for in-  
 compatible offices as defined in RSA 655:10, and that he is not a  
 federal employee which makes him ineligible to file as a candi-  
 date for this office.** I further certify that I believe the above-named  
 person is especially qualified to fill said office.

\_\_\_\_\_  
**Print Voter's Name**

\_\_\_\_\_  
**Voter's Signature**

[(Signed) \_\_\_\_\_]

State of New Hampshire

County of \_\_\_\_\_, ss.

City (town) of \_\_\_\_\_, 19\_\_\_\_

The above-named, \_\_\_\_\_, personally known to  
 me, appeared and made oath that the above petition, by him sub-  
 scribed, is true.

Before me,

\_\_\_\_\_  
 Justice of the Peace or Notary Public

### **AMENDED ANALYSIS**

This bill amends the forms used for declarations of candidacy, pri-  
 mary petitions, and qualifications of candidates. The bill requires a  
 candidate to declare that he is not a candidate for incompatible of-  
 fices, and that he is not a federal employee.

The bill also adds certain information which must be included on  
 primary petitions.

Senator Delahunty moved to Have HB 147, Laid On The Table.

**HB 147, IS LAID ON THE TABLE.**

**HB 166**, an act relative to voting in cooperative school districts. Pub-  
 lic Affairs committee. Ought To Pass. Senator Bass for the commit-  
 tee.

**SENATOR BASS:** Mr. President, this bill provides that a voter in a  
 town or city living in a cooperative school district should be eligible  
 to vote at that cooperate school district election or meeting in which  
 the district is located, and he or she is domiciled. One would think



that that would already be in state law, but apparently there is some question about that. Perhaps what is more significant, is that there is a floor amendment which is currently being passed out. It is number 2848L and at the appropriate time I plan to offer that floor amendment. We have a rather unusual situation in Concord, here. In the village of Penacook they have a ward line that crosses a school district, so as a result, many of the citizens of Penacook cannot vote at the school district meeting. All the amendment does that I am proposing here today, is allow that the supervisor put an asterisk or whatever is necessary next to the name of the individual who is on the checklist in a ward that crosses the school district line so that that individual, so they will know whether that individual is qualified to vote in the Merrimack school district, or whatever it's called, Merrimack Valley school district, or the Concord school district. We urge your support of the floor amendment at the appropriate moment and the committee report which will be Ought to Pass as Amended.

Senator Bass offered a floor amendment.

### **Floor Amendment to HB 166**

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Voting in Cooperative School Districts. Amend RSA 671:17 by inserting after paragraph II the following new paragraphs:

III. Notwithstanding any other provision of law, any registered voter on a town or city checklist, who has his domicile within a cooperative school district, shall be eligible to vote at any cooperative school district election or meeting in the district where he has his domicile. The supervisors of the checklists for the various cities and towns within a cooperative school district shall make an appropriate notation on their respective checklists with respect to which school district a registered voter is entitled to vote in.

IV. Notwithstanding any other provision of law, any cooperative school district, which uses the checklists of the cities and towns within the district for an election or meeting pursuant to paragraph III, shall not be required to maintain a separate school district checklist or conduct sessions of the supervisors of the checklist.

### **AMENDED ANALYSIS**

This bill provides that any registered voter on a town or city checklist, who lives within a cooperative school district, shall be eligible to vote at any cooperative school district election or meeting in

the district where he has his domicile. The bill also adds certain provisions relative to the use of checklists in cooperative school districts.

Floor Amendment Adopted.

Ordered To Third Reading.

Recess

Out of recess.

Senator Delahunty in the Chair.

**HB 386**, an act relative to a representative town meeting form of government. Public Affairs committee. Ought To Pass. Senator Bass for the committee.

**SENATOR BASS:** This bill allows towns to adopt a representative form of town government if they choose to. It has never been done in New Hampshire. Representative town meeting is a form of government that exists in other New England states, Connecticut is one of them. New Hampshire had this option available to the towns for many, many years, but it was inadvertently omitted in 1979 in **HB 292**. The sponsors of the bill at the time, testified that they didn't think that that option was eliminated by the passage of the bill, so time went on and last year apparently the town of Goffstown established a charter commission and attempted to investigate the possibility of creating a representative town meeting form of government and they were advised that they couldn't do so because of a change that occurred in 1979. All this bill does is reinstate that option for the towns. The committee urges your adoption of the committee report of Ought to Pass.

**SENATOR COLANTUONO:** Senator Bass, do you historically, know of any town opted to have a representative form?

**SENATOR BASS:** No, I don't think so, Senator Colantuono. There hasn't been, simply this town of Goffstown, that didn't wish to necessarily adopt a representative form of town meeting, but wish to look at that option and determine that that was not an option for them because of this oversight that occurred in 1979. In all reality, I doubt seriously that there would be any change in town government as a result of the passage of this bill, but you never know. It gives the towns this option.

Adopted.

Ordered To Third Reading.

**HB 544**, an act relative to the time for hearing appeals before the ballot law commission and relative to appointing alternate ballot law



commission members. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill authorizes the Governor, to appoint two alternate members to the ballot law commission. Those of you who kept up with the events and so forth subsequent to this past year's election, may have read that it was sometimes quite difficult to call the ballot law commissioners together. They are, I believe, all three lawyers, they were busy, and as a result some significant problems accrued. What this bill does is allow for the orderly appointment of alternates to the ballot law commission. The amendment does two things, it gives the Supreme Court one appointment which they currently have of the three ballot law commissioners that exist now. And it also eliminates the section of the bill that required an appeal within seven, consideration appeal within seven days after filing and substitutes a required meeting of the ballot law commission to the fourth Monday in November. The point of this is, is that it would clear up election disputes before Organization Day, so that Senators and Representatives who are elected would have an opportunity to have their dispute result before that time. The committee urges the Senate's adoption of the committee report of Ought to Pass as Amended.

#### **Amendment to HB 544**

Amend the title of the bill by replacing all after the enacting clause with the following:

1 Alternate Ballot Law Commission Members. Amend RSA 665:1 and 665:2 to read as follows:

665:1 Organization.

I.(a) There shall be a ballot law commission consisting of 3 members, one of whom shall be an attorney in good standing and licensed to practice in the state of New Hampshire. This member of the commission shall be appointed by the New Hampshire supreme court. The other 2 members shall be appointed by the governor with the advice and consent of the council, one from each of the 2 major political parties in the state based on votes cast for governor in the most recent state general election. The terms of all commissioners shall be for 4 years, or until their successors are appointed and qualified, except that the first appointments shall be for terms of 2, 3 and 4 years, respectively. The supreme court nominee, who shall always be the chairman, shall be appointed in the first instance for a term of 2 years with the remaining 2 nominees appointed by the governor with the advice and consent of the council to be appointed initially for the terms of 3 and 4 years, respectively. Thereafter, one member shall be appointed at the expiration of each term to take office July 1.

Vacancies shall be filled in the same manner for the unexpired term. The 2 commissioners appointed by the governor with the advice and consent of the council shall not be of the same political party. The secretary of state shall be recording officer and clerk of the commission, but shall have no vote in its decisions.

**(b) There shall be 3 alternate members for the ballot law commission. One alternate member shall be appointed by the New Hampshire supreme court. The alternate member appointed by the supreme court shall be an attorney in good standing and licensed to practice in the state of New Hampshire. The alternate member appointed by the supreme court shall perform the duties of the chairman and shall always be the alternate to temporarily fill the chairman's place. Two alternate members shall be appointed by the governor with the advice and consent of the council, and shall not be of the same political party. The terms of all alternate members shall be for 4 years, and the term of each new alternate member shall begin on July 1.**

665:2 [Pro Tem] **Alternate Member.** In case any member of the commission is absent from any meeting or unable to perform his duties or disqualifies himself as commissioner, [a commissioner pro tempore shall be appointed by the supreme court acting as a body. In case of such appointment, the appointee] **an alternate member who** shall have the same qualifications as those of the commissioner whose place he is temporarily filling **shall perform the duties of the commissioner.**

2 New Paragraph; Hearing Dates for Ballot Law Commission. Amend RSA 665:6-a by inserting after paragraph I the following new paragraph:

I-a. The ballot law commission shall meet on the fourth Monday in November in each general election year. The commission shall hear and decide all pending matters concerning the election of persons to the New Hampshire general court. At this time, the commission may also act on any other pending matters.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill authorizes the supreme court to appoint one alternate member, and the governor to appoint 2 alternate members, to the ballot law commission.

The bill also adds an additional hearing date for the ballot law commission. The commission is required to meet on the fourth Monday in November in each general election year.

Amendment Adopted.



Ordered To Third Reading.

**HB 579**, an act relative to municipal charters. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: Mr. President, HB 579 is a bill that has been created as a result of a study committee that worked for three years, it was appointed by statute. I had the honor of serving on that committee along with former Senate President, Bill Bartlett, John Andrews, and others, representatives of the public, municipalities and so forth. The floor amendment which is being distributed is being done so because when the Public Affairs committee voted Ought to Pass as Amended . . . I urge that you defeat the amendment as is printed in the calendar, because the committee secretary submitted the wrong amendment to the Senate Clerk, Gloria Randlett. The amendment that the committee actually voted is the one that I will be offering at such time as the committee amendment is defeated and I will explain the bill at that time.

#### **Amendment to HB 579**

Amend the bill by replacing section 10 with the following:

10 New Section; Return to Former Form of Government; Separability; Preservation of Existing Charter Actions. Amend RSA 49-B by inserting after section 11 the following new sections:

49-B:12 Return to Former Form of Government.

I. Notwithstanding the provisions of this chapter, any town, through the petition procedure in RSA 49-B, may repeal its charter and return to its former form of government without establishing a charter commission.

II. The question of whether the town should repeal its charter and return to its former form of government shall be put to the voters in the same manner as an amendment to a charter, under RSA 49-B:5.

49-B:13 Separability; Preservation.

I. The provisions of this chapter and of charters created under this chapter are separable. If any portion of this chapter, or of any charter adopted under the provisions of this chapter, or if the application of the chapter or such charter to any person or circumstance shall be invalid, the remainder of the chapter or such charter or the application of such invalid portions to other persons or circumstances shall not be affected by such invalidation.

II. All town and city charters which have been adopted, revised or amended; all charter commissions which have been established and elected; and all elections held and actions taken pursuant to

such elections, which were not at the time contrary to the state general laws and constitution, are hereby legalized.

III. RSA 32 shall not apply to a municipality adopting, revising, or amending a charter under RSA 49-C or RSA 49-D.

Amendment Fails.

SENATOR BASS: Mr. President, I move, I would like to move Ought to Pass as Amended. Amendment 2845L as in lima. It has been distributed and I would like to speak to that motion. Mr. President, this is the amendment that the committee voted in its original motion of Ought to Pass as Amended. This bill makes some changes in the bill which were discussed and proposed as a result of an extensive debate of public information which was given to the committee during the public hearing process. By way of background, New Hampshire basically, didn't have anything but towns, prior to the Civil war. Everything was a town, and as towns got bigger and bigger, it became less and less possible to have town form of government work and the first city was created, the city of Manchester. Since that time of course other cities have been created, Keene, Laconia, Berlin, Concord, Nashua, Portsmouth and so forth. There hasn't been however, any clear effort made to distinguish what a town is and what a city is. As a result we are beginning to see very strange hybrids occur. Cities that call themselves towns, and towns that call themselves cities and so forth. So as a result, three or four years ago, the Legislature created a special study committee which spent a good part of a year studying ways in which we could clarify what a town is and what a city is and that is basically what HB 579 does. The amendment as I said in my earlier comments, reflects some concerns that were brought to the committee during the public hearing. It changes the definition of a revision which requires a creation of a chartered commission to make it a little less broad, it changes the gubernatorial to municipal election for purposes of determining what qualifies at 20 percent of the community for purposes of passing a petition or getting the right number of signatures for a petition. It modifies the approval and review process, but essentially does so within the existing procedure that we have now and it adds an amendment that allows a municipality to return to its former form of government to the petition process rather than the revision process. That is it as far as the amendment is concerned. The Public Affairs committee urges the Senate's adoption of the floor amendment and the committee report of Ought to Pass as Amended.

SENATOR CURRIER: Senator Bass, I get concerned relative to floor amendments when they are kind of lengthy. I just want to make sure for the record, that I am clear as to what the difference is



between what was in the calendar and what was in this floor amendment? The question is, there was a technical problem in the committee amendment that got to the Senate Clerk's Office for publication and then in fact, 2845L is really what the committee was sending over?

SENATOR BASS: That is correct.

SENATOR CURRIER: I just get a little bit concerned when . . . and it is hard to digest on the floor of the Senate, the magnitude of a bill that is in some cases bigger than the bill and I just wanted to make sure that that wasn't happening here.

SENATOR BASS: Interestingly enough, Senator Currier, the amendment that is in the calendar was proposed by a Representative and that part of the amendment that is in the calendar is actually the most substantiate part of this amendment, but you're right. The amendment in which the committee secretary submitted was not the right amendment. It was not the one that the committee adopted. And in fact, the amendment that is in the calendar is a part of this amendment.

Senator Bass offered a floor amendment.

### **Floor Amendment to HB 579**

Amend RSA 49-B:2, IV(a) as inserted by section 4 of the bill by replacing it with the following:

(a) "Amendment" means the enactment or repeal of a single section or subsection of a charter pertaining to any one subject matter, and any related section the meaning or operation of which is changed as a result of the enactment or repeal.

Amend RSA 49-B:2, IV(i) as inserted by section 4 of the bill by replacing it with the following:

(i) "Revision" means multiple changes in the basic form of government proposed by several enactments or repeals.

Amend RSA 49-B:4, VI as inserted by section 7 of the bill by replacing it with the following:

VI. Upon the filing of the final report, the municipal officers shall order the proposed new charter or charter revision to be submitted to the voters at the next regular [or special] municipal election held at least 60 days after the filing of the final report.

Amend the bill by replacing section 8 with the following:

8 Approval and Review. RSA 49-B:5-a is repealed and reenacted to read as follows:

49-B:5-a Approval and Review.

I. Within 10 days of the filing of the final report relative to any new municipal charter, charter revision, or charter amendment, the municipal clerk shall file a certified copy of said report with the secretary of state, the attorney general and the commissioner of the department of revenue administration. Within 14 days of the receipt of said report with the secretary of state, attorney general and commissioner of the department of revenue administration, they shall review the proposed charter, charter revision, or charter amendment to insure that it is consistent with the general laws of this state.

II. If the secretary of state, the attorney general, or the commissioner of the department of revenue administration do not approve, the proposed charter or charter amendment question shall not be placed on the municipal ballot. The secretary of state, attorney general and commissioner of the department of revenue administration shall specify their objections in writing to the municipal clerk within the period of time allowed for review and shall offer recommendations for changes in language which would correct any inconsistencies they may find in the proposed charter or charter amendment to be voted upon. Failure to specify objections to a proposed charter or charter amendment under this section shall constitute approval by the secretary of state, attorney general, or the commissioner of the department of revenue administration.

III. The governing body of the municipality may seek judicial review of a decision of the secretary of state, attorney general or the commissioner of the department of revenue administration by appeal in superior court, pursuant to RSA 49-B:10, IV.

Amend the bill by replacing section 10 with the following:

10 New Section; Return to Former Form of Government; Separability; Preservation of Existing Charter Actions. Amend RSA 49-B by inserting after section 11 the following new sections:

49-B:12 Return to Former Form of Government.

I. Notwithstanding the provisions of this chapter, any town, through the petition procedure in RSA 49-B, may repeal its charter and return to its former form of government without establishing a charter commission.

II. The question of whether the town should repeal its charter and return to its former form of government shall be put to the voters in the same manner as an amendment to a charter, under RSA 49-B:5.

49-B:13 Separability; Preservation.

I. The provisions of this chapter and of charters created under this chapter are separable. If any portion of this chapter, or of any charter adopted under the provisions of this chapter, or if the application of the chapter or such charter to any person or circumstance



shall be invalid, the remainder of the chapter or such charter or the application of such invalid portions to other persons or circumstances shall not be affected by such invalidation.

II. All town and city charters which have been adopted, revised or amended; all charter commissions which have been properly established and elected; all elections properly held; and actions properly taken pursuant to such charters are hereby legalized, provided that such charters at the time of their adoption were not contrary to the general laws and constitution of the state.

III. RSA 32 shall not apply to a municipality adopting, revising, or amending a charter under RSA 49-C or RSA 49-D.

Amend RSA 49-C:13 as inserted by section 11 of the bill by deleting paragraph II and renumbering paragraph III to read as II.

Amend the bill by inserting after section 11 the following and renumbering the original sections 12-14 to read as 14-16, respectively:

12 Establishment of Charter Commission. Amend RSA 49-B:3, II to read as follows:

II. On the written petition of a number of voters equal to at least 20 percent of the number of votes cast in the municipality at the last [gubernatorial] **regular municipal** election, but in no case less than 10 voters, the municipal officers shall, by order, provide for the establishment of a charter commission for the revision of the municipal charter or for the preparation of a new municipal charter in the form and manner provided in this chapter.

13 Charter Amendments. Amend the introductory paragraph of RSA 49-B:5, II to read as follows:

II. On the written petition of a number of voters equal to at least 20 percent of the number of votes cast in a municipality at the last [gubernatorial] **regular municipal** election, but in no case less than 10 voters, the municipal officers shall, by order, provide that proposed amendments to the municipal charter be placed on a ballot in accordance with the procedures set out below.

Floor Amendment Adopted.

Ordered To Third Reading.

**HB 746-FN**, an act relative to procedures and fees for recording certain documents with town or city clerks. Public Affairs committee. Ought To Pass With Amendment. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill allows, permits the towns to charge higher fees for the recording of telephone and cable licenses and articles of agreement. The increases in these fees are simply designed to bring them into keeping what it actually cost the town officers, the town employees rather, to produce those docu-

ments. The amendment deletes section four of the bill which is already in statute in HB 270 which passed by this body earlier this session. The committee urges the Senate's adoption of the committee report of Ought to Pass as Amended.

### **Amendment to HB 746-FN**

Amend the title of the bill by replacing it with the following:

### **AN ACT**

relative to fees for recording certain documents  
with town or city clerks.

Amend the bill by deleting section 4 and renumbering the original section 5 to read as 4.

### **AMENDED ANALYSIS**

This bill establishes or increases fees for recording telephone pole and cable licenses and articles of agreement with town or city clerks.

Amendment Adopted.

Ordered To Third Reading.

**HB 205**, an act restricting the method of taking freshwater smelt. Wildlife & Recreation committee. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** Thank you, the authority on smelt is here. This bill is at the request of the department and in reality gives the department the power to set limits and set places of where smelt fishing can be carried out. The department educated us all to the fact that salmon and trout in lakes and in streams use the smelt spawn as their principal food. It is important for the rest of the fish chain that the smelt be controlled and be used and harvested in a scientifically researched manner. For that reason, the department has requested this bill and our committee has passed it.

Adopted.

Ordered To Third Reading.

**HB 245**, an act prohibiting pre-season baiting. Wildlife & Recreation committee. Ought To Pass With Amendment. Senator Heath for the committee.

**SENATOR HEATH:** Pre-season baiting or the training of bears has been a question in the press that it has been a terrific problem, particularly in my district, but in other parts of the state as well.



The Department of Fish and Game originally recommended this legislation which simply prohibits pre-season baiting on bears and the committee felt that this was a responsible thing to do. Some of these bears have been baited all spring and summer and trained to come to a barrel of bait and shot on the first day of the season. We didn't think that that was very sporting and it has given, at least in my area, a bad reputation to all sportsmen and we believe that you have to clean up your act if you are a sportsman or you are going to lose parts of your activities. And we are losing by the closing of a lot of land in Sandwich and Tamworth and perhaps in other areas to the poor sportsmanship of pre-season baiting. So we would urge you to go along with the committee report.

Recess.

Out of recess.

President Dupont in the Chair.

#### **Amendment to HB 245-FN**

Amend RSA 207:3-d, I as inserted by section 2 of the bill by replacing it with the following:

I. No person shall engage in the practice of baiting for coyote, fur-bearing animals, or game animals with the exception of gray squirrel from April 15 to the day before the opening of the season for the taking of wild black bear.

#### **AMENDED ANALYSIS**

This bill prohibits the baiting for coyote, fur-bearing animals or game animals with the exception of gray squirrels from April 15 to the day before the opening of the season for taking wild black bear.

This bill also prohibits all baiting less than 300 feet from a dwelling, or public roadway, pathway or trail.

Amendment Adopted.

Ordered To Third Reading.

**HB 289-FN**, an act relative to regulating commercial salt water fishing. Wildlife & Recreation committee. Ought To Pass. Senator Bass for the committee.

SENATOR BASS: Mr. President, this bill does, believe it or not, a number of housekeeping changes. Relative to the Fish and Game Department's jurisdiction over commercial salt water fishing. The abstract, the amended analysis of the bill is accurate and I won't go through and read it all in the interest of time. In my opinion the only change relates to exemption from 541-a of the rules, pertaining to

marine species. The only reason I say that is because I am on The Administrative Rules committee and the reason that they need that exemption is because those particular rules are set by the Atlantic States Marines Fisheries Compact, which is a combination of different states and it is important that we cooperate with them and these limits are set on a very rapid basis and they need to be changed with, in a quicker fashion than that in which would be allowed for under the Administrative Rules process. We urge your support, the committees report of Ought to Pass.

SENATOR HOLLINGWORTH: Senator Bass, I recognize the need to change the rulemaking requirements, but what I'm wondering is where is the oversight going to be for the state of New Hampshire?

SENATOR BASS: Could I defer to Senator Heath, who actually serves on the Atlantic States Marines Fisheries Compact?

SENATOR HEATH: I didn't hear the last part of your question.

SENATOR HOLLINGWORTH: My question is, I recognize that this bill exempts the study or group, I believe, isn't to allow them to be exempt under the Atlantic State and Fishery compact and I understand from Senator Bass, that the reason to do that is because rules, our rules would not react as quickly. Now what I want to know is where is the over-sight for the state of New Hampshire if we have no oversight on the rules that are developed?

SENATOR HEATH: Well, I guess the oversight is that we have in New Hampshire members appointed by the Governor, by both legislative leaders on the Atlantic States Marine Fisheries Commission. We have professionals in the department that are appointed, we have law enforcement by both biologist law and enforcement by the department, legislators and the Governors appointee, and we can always come back and change them. But I'll give you an example why you may need the more rapid than the normal process gives us, why you may need a quick change. We set, I guess, about two years ago, a change in the mesh size of the nets for, I think, it's herring and we needed to do that before the season begins and it was in coordination with the Gulf of Maine and the other states that are impacted by fishing in that whole area out to the Georges Banks. So Massachusetts, New Hampshire and Maine needed to have this legislature on so that people could order their nets and be in compliance with the law, instead of being in one state now and another state later, we just felt that they needed time and apparently the people who make the nets needed time once they got the orders to change their machinery to make the nets to coordinate that. So we can always legislatively go back and recall any of those. But essentially, the whole



Atlantic States Marine Fisheries Commission project is to coordinate the management three miles out and in. The management of those fisheries that swim up and down our coast so that Russian trawlers aren't sitting in one state taking fish from another state and so on.

SENATOR HOLLINGWORTH: Does this also affect our bays, not just the . . .

SENATOR HEATH: Yes, out to the three mile limit, that's what this commission works on.

Adopted.

Ordered To Third Reading.

**HB 517-FN**, an act relative to watercraft safety. Wildlife & Recreation committee. Ought To Pass With Amendment. Senator McLane for the committee

SENATOR MCLANE: This bill was put in at the request of the Department of Safety. There have been some questions raised about the amendment and I believe that Senator Heath has a motion.

### **Amendment to HB 517**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to watercraft safety and moorings.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 8:

6 New Section; Docking, Mooring Prohibited. Amend RSA 270 by inserting after section 64 the following new section:

270:64-a Docking, Mooring Prohibited.

I. No person shall dock, moor, make fast, or otherwise secure a vessel to real or other property of another, knowing that he is not licensed or privileged to do so. For the purposes of this section, other property shall include but shall not be limited to, docks, swim lines, moorings, swim rafts and other vessels.

II. No person shall moor, anchor or otherwise secure a commercial vessel within 150 feet of any private or public property without the consent of the owner or authorized agent of the owner of such property.

III. No person shall cause a vessel that he is operating or otherwise in control of, to remain fastened to any structure or other property in defiance of an order to move such vessel or have such vessel

removed, which was personally communicated to him, whether verbally or in writing by the owner or authorized agent of the owner of the structure or other property.

IV. For the purpose of this section, the commissioner of safety or any peace officer with jurisdiction, may impound any vessel found to be in violation of this section or may order the removal and storage at a place of safekeeping of any such vessel. All reasonable charges of such impoundment, removal and storage shall be a lien against the boat.

7 New Paragraphs; Penalties. Amend RSA 270:72 by inserting after paragraph IV the following new paragraphs:

V. Any person who violates the provisions of RSA 270:64-a, I shall be, if a natural person, guilty of a violation, and if any other person, guilty of a misdemeanor.

VI. Any person who violates the provisions of RSA 270:64-a, II shall be, if a natural person, guilty of a misdemeanor and if any other person, guilty of a class B felony. Any person found to be guilty of violating the provisions of RSA 270:64-a, II shall be fined no less than \$500 for each violation, which shall not be suspended or reduced by the court.

VII. Any person who violates the provisions of RSA 270:64-a, III shall be, if a natural person, guilty of a misdemeanor and if any other person, guilty of a class B felony.

VIII. For the purposes of this section, every 24-hour period shall constitute a separate violation.

### AMENDED ANALYSIS

This bill allows the commissioner of safety or one of his authorized agents, to examine any boat at a dealer, fiberglass shop, auction or any place where boats are repaired or restored, to check hull identification or serial numbers.

The bill also permits the commissioner to revoke the privilege to operate or register a boat.

This bill prohibits the sale of boats which are unequipped with muffling devices. The bill allows the commissioner to waive certain administrative penalties for violations of boating laws and rules. It establishes criminal penalties for certain boating offenses.

In addition, this bill prohibits any person from securing, in any manner, a vessel to any real or other property without the consent of the owner or his agent. The bill also establishes penalties for violations of the docking or mooring requirements.

Senator Heath moved to Have HB 517-FN Laid On The Table.

Adopted.



HB 517-FN, IS LAID ON THE TABLE.

Senator Heath is in opposition to HB 517.

**HB 559-FN**, an act relative to commercial and recreational fisheries. Wildlife & Recreation committee. Ought To Pass. Senator Cohen for the committee.

SENATOR COHEN: The purpose of this bill is to recognize the value, the continued value of New Hampshire's future of our commercial and recreational fisheries. The intent of this bill is to make sure that their continued use as fisheries should not be discouraged or eliminated by use of municipal planning and zoning powers. No one spoke in opposition to this bill. The committee urges a vote of Ought to Pass.

Adopted.

Ordered To Third Reading.

**HB 617-FN**, an act relative to fishing permits for certain head-injured persons. Wildlife & Recreation committee. Ought To Pass With Amendment. Senator Heath for the committee.

SENATOR HEATH: This is a simple bill that allows the director to name institutions that deal with head injured individuals which institutions would qualify for a free fishing license. We had testimony that fishing is a good therapy for these patients. There's not going to be an expense to the state, in that there probably wouldn't be fishing otherwise, and I don't imagine that they will be a great drain on the fishery because there are not that many individuals that would be involved. I would urge your passage.

### **Amendment to HB 617-FN**

Amend RSA 214:14-g as inserted by section 1 of the bill by replacing it with the following:

214:14-g Patients at Certain Head Injury Treatment Programs. Head injury patients at eligible head injury treatment programs may fish without a license on a special fishing permit issued by the recreational or physical therapist in charge when such form of recreation may be of therapeutic benefit to such patients, provided that no such special fishing permit shall be valid for a period longer than the length of treatment of the patient to whom the special fishing permit is issued. Patients fishing under the provisions of this section shall be under the direct supervision of the recreation supervisor, or his designate, and shall have in their possession a valid special fishing permit. The executive director shall determine head injury treatment programs eligible to participate under this section. The

executive director shall furnish permit forms to such head injury treatment programs at their request, to be filled out when issued. The number of permits issued shall be reported to the executive director once each year as he shall direct.

2 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill permits patients at certain eligible head injury treatment programs to fish without a license on a special permit issued by the recreational or physical therapist in charge.

Amendment Adopted.

Ordered To Third Reading.

### REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and Senate Bills:

**HB 118**, relative to determination of alimony where one spouse has remarried.

**HB 168**, relative to highway classifications.

**HB 175**, relative to the hunting of pheasants.

**HB 275**, establishing a permanent heritage collections committee and a New Hampshire heritage trust fund, continually appropriating funds in the trust fund to the committee, and making an appropriation therefor.

**HB 419**, prohibiting the use of petroleum-powered motors on Tewksbury Pond in the town of Grafton.

**HB 431**, relative to exempting certain purchases for severely emotionally disturbed children from state purchasing requirements.

**HB 710**, relative to the regulation of tree stands, observation blinds, and pit blinds.

**SB 101**, establishing a study committee relative to the industrial development authority.

**SB 139**, relative to preventing damage to underground utility installations.

Adopted.

### REPORT OF COMMITTEE ON ENROLLED BILLS

#### Enrolled Bill Amendment to SB 222-FN

Amend RSA 387:2-a as inserted by section 4 of the bill by replacing it with the following:



387:2-a Committee Extended. The Nashua passenger rail advisory committee established under 1989, 387:2 is extended, as a subcommittee of the alternative transportation study advisory committee established under section 2 of SB 222-FN of the 1991 regular session, until August 1, 1993. The subcommittee shall continue the planning process with the goal of implementing a rail service from Nashua to Lowell, Massachusetts. The subcommittee also may address questions concerning implementation costs, liability issues and the management and operation of such a service. Membership and guidelines for compensation established under 1989, 387:2 shall remain in effect for the subcommittee. The subcommittee shall submit a report to the committee for inclusion in the committee's report on or before August 1, 1993.

SENATOR CURRIER: This enrolled bill amendment corrects a technical error in the bill.

Senator Currier moved concurrence.

Adopted.

## **REPORT OF COMMITTEE ON ENROLLED BILLS**

### **Enrolled Bill Amendment to HB 655-FN**

Amend the bill by replacing line 6 of section 2 of the bill with the following:

RSA 189:28 by September 1. At the end of 30 days the commissioner of the

SENATOR CURRIER: This enrolled bill amendment corrects a reference error that was made in the bill during the process.

Senator Currier moved concurrence.

Adopted.

## **RESOLUTION**

Senator Delahunty moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that the bills ordered to third reading be read a third time by this resolution, all titles be the same as adopted and that they be passed at the present time; and that when we adjourn, we adjourn until Wednesday, May 15, 1991, at 1:00 p.m.

Adopted.

## **RECONSIDERATION**

SENATOR OLESON: Having voted with the prevailing side, I now moved reconsideration of SR 7, whereby we killed the resolution, and urge my colleagues to vote with me to bring the resolution be-

fore the Senate at the present time. One word, if we will consider this reconsideration, the next motion to be made would be to table the bill.

Senator Oleson moved reconsideration on SR 7, relative to the James Bay II project of Hydro-Quebec.

Adopted.

Senator Cohen moved to Have SR 7, Laid On The Table.

SR 7, IS LAID ON THE TABLE.

### RECONSIDERATION

SENATOR RUSSMAN: Having voted with the prevailing side, I move to reconsider HB 704, relative to liquidation under the supervision of the bank commissioner.

Senator Russman moved reconsideration on HB 704, an act relative to liquidation under the supervision of the bank commissioner.

Adopted.

SENATOR RUSSMAN: Yes, I have a floor amendment to offer. I would like to defer to Senator Colantuono for the discussion of the amendment.

SENATOR COLANTUONO: I don't believe it was the intention of the people who drafted this to do away with the traditional right a person had to go to a court and get an attachment against the bank account of someone who is a defendant. I understand now the reason why we want to do away with the right to get an attachment against the bank itself. But the way, the amendment that we just voted on in the calendar today was worded, that would also do away with the right, the traditional right to go in and attach a bank account. So this floor amendment satisfies my concern. The key language is the language after the word act, where it says, "or affect proceedings for trustee attachment in which a bank is trustee." That refers to a situation where if you want to sue another person and the only asset you can find in the state is their bank account, you can go and attach the bank account by means of what is known as a trustee attachment in which the bank is considered the trustee. So this amendment preserves that traditional right. Senator Fraser has been briefed on it and he, I believe, is in agreement with it and I think that it's a necessary amendment to keep the law in a proper form.

SENATOR FRASER: After having discussed this with Senator Colantuono, we agree that this is an appropriate amendment. As Chairman of the Banks committee, I wholehearted support it.



Senator Russman offered a floor amendment.

### **Floor Amendment to HB 704**

Amend the bill by replacing section 9 with the following:

9 Applicability. RSA 384:56, as inserted by section 8 of this act shall not affect proceedings for prejudgment attachments instituted prior to the effective date of this act or affect proceedings for trustee attachment in which a bank is trustee.

Floor Amendment Adopted.

Ordered To Third Reading.

## **ANNOUNCEMENTS**

### **LATE SESSION**

#### **Third Reading And Final Passage**

**HB 166**, an act relative to voting in cooperative school districts.

**HB 184-FN**, an act relative to civil penalties for securities violations.

**HB 205**, an act restricting the method of taking freshwater smelt.

**HB 245**, an act prohibiting pre-season baiting.

**HB 289-FN**, an act relative to regulating commercial salt water fishing.

**HB 386**, an act relative to a representative town meeting form of government.

**HB 409-FN-A**, an act establishing an industrial heritage commission and industrial heritage park fund and making an appropriation therefor.

**HB 485**, an act relative to living wills.

**HB 559-FN**, an act relative to commercial and recreational fisheries.

**HB 544**, an act relative to the time for hearing appeals before the ballot law commission and relative to appointing alternate ballot law commission members.

**HB 579**, an act relative to municipal charters.

**HB 617-FN**, an act relative to fishing permits for certain head-injured persons.

**HB 637-FN**, an act relative to insurance fraud.

**HB 653**, an act relative to defense and indemnification of state officers and employees.

**HB 704**, an act relative to liquidation under the supervision of the bank commissioner.

**HB 746-FN**, relative to fees for recording certain documents with town or city clerks.

**HB 771-FN**, relative to revocation of parole and reparole.

Senator Delahunty moved that the Senate now adjourn from the late session and that when we adjourn we adjourn until Wednesday, May 15, 1991 at 1:00 p.m.

Adopted.

Senator Currier moved that we adjourn until Wednesday, May 15, 1991 at 1:00 p.m.

Adjournment.

Senator Currier moved that we adjourn until Wednesday, May 15, 1991 at 1:00 p.m.

Adjournment.

*May 15, 1991*

The Senate met at 1:00 p.m.

A quorum was present.

The prayer was offered by the Rev. Dr. Vincent Fischer, Senate Chaplain.

*Let us pray. Lord, how great you are. You have given us the beauty of this world. The sun and the rain for our food. When we are upset and we feel down trodden, you send us hope and lift us up and brighten our days. Bless us all Lord, as we work hard to handle that which was given unto us!* Amen.

Senator Hollingworth led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### SENATE CONCURS WITH HOUSE AMENDMENTS

The House of Representatives concurs with the Senate in the passage of the following entitled Bills, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 149-FN-A** - relative to reimbursing certain school cooperatives for certain expenses and making an appropriation therefor.

Senator Blaisdell moved concurrence.

Adopted

**SB 7-FN-A** - relative to an industrial research center at the university of New Hampshire.



Senator Shaheen moved concurrence.

Adopted

The House of Representatives concurs with the Senate in the passage of the following entitled Bills, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 118-FN**, relative to the department of revenue administration.

Senator McLane moved to concur.

Adopted.

The House of Representatives concurs with the Senate in the passage of the following entitled Bills, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 57-FN**, relative to the review of New Hampshire corporate laws.

Senator W. King moved to concur.

Adopted.

The House of Representatives concurs with the Senate in the passage of the following entitled Bills, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 185-FN**, relative to liquor licenses for caterers and allowing caterers to subcontract the cooking, preparing, and serving of food.

Senator McLane moved to concur.

Adopted.

The House of Representatives concurs with the Senate in the passage of the following entitled Bills, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

**SB 150**, relative to partnerships and relative to foreclosures.

Senator Fraser moved to concur.

Adopted.

The House of Representatives concurs with the Senate in the passage of the following entitled Bills, with amendments, in the passage of which amendments the House of Representatives asks the concurrence of the Senate:

SB 206, relative to liquor licenses for caterers.

Senator McLane moved to concur.

Adopted.

### HOUSE CONCURS

The House of Representatives concurs with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 3-A - relative to exit 10 on the Spaulding turnpike and making an appropriation therefor.

SB 5-FN - relative to Skyhaven airport.

SB 11-A - appropriating funds for a new courthouse in Rockingham county.

SB 14-A - relative to environmental and engineering studies and acquisition of rights-of-way for the construction of a truck lane on United States Route 2 in Jefferson, New Hampshire, and making an appropriation therefor.

SB 28-FN-A - relative to promoting New Hampshire businesses and products internationally.

SB 41-A - relative to the construction of a fire training academy for New Hampshire fire fighters and making an appropriation therefor, and relative to motor vehicle records fees.

SB 64-A - relative to the superior courthouse in Nashua and making an appropriation therefor.

SB 71-FN - relative to superior court justices.

SB 72-FN-A - establishing and continually appropriating a fund for the purchase of vaccines.

SB 74-FN - establishing a committee to study the use of funds appropriated for catastrophic illness care.

SB 79-FN - establishing a committee to study an expedited permit process for environmental permits.

SB 87-FN - relative to replacement employees.

SB 90-FN - relative to the Salmon Falls Road in the cities of Somersworth and Rochester.

SB 102-FN - authorizing the bank commissioner to establish and administer a public deposit investment pool.



SB 114-FN - requiring a report on certain water laws.

SB 122-FN - exempting certain solid waste districts from application fees.

SB 128-FN-A - relative to the development of an electronic benefit transfer system and making an appropriation therefor.

SB 155 - relative to mechanics' liens.

SB 171-FN - relative to discrimination in the workplace.

SB 173-FN-A - relative to senior "meals on wheels" and senior transportation and making an appropriation therefor.

SB 202-FN - relative to due process in the liquor commission's proceedings.

SB 224-FN -relative to increasing the bonding authority for industrial development projects for the city of Dover.

### **HOUSE REFUSES TO CONCUR**

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Senate Bills sent down from the Senate:

SB 20-FN - establishing a committee to study the licensure of dietitians and nutritionists.

SB 59-FN - relative to a state-sponsored credit card program.

SB 75 - relative to bargaining rights for state employees.

SB 86-FN - to create low salt districts within the state highway system.

SB 153 - relative to licensing of pharmacists.

SB 160 - granting condominium associations a 6-month assessment lien priority over first mortgage or deed of trust liens.

SB 167-FN - establishing a committee to study the sequencing of the central turnpike projects.

SB 168-FN - establishing a committee to study the toll highway system.

SB 176-FN - relative to ophthalmic dispensing.

### **HOUSE RE-REFERS TO COMMITTEE**

The House of Representatives has Re-referred to Committee the following Senate Bills and Senate Resolution sent down from the Senate:

SB 16-FN - relative to the board of dental examiners.

SB 18-FN-A - relative to the conservation corps program and making an appropriation therefor.

SB 60-A - creating a task force to study the Laconia - I-93 connector highway.

SB 76 - relative to the age requirement for retirement communities.

SB 107-FN - relative to tenants' security deposits.

SB 186-FN - establishing a committee to study household hazardous waste.

SB 193-FN - relative to limits on motorboat speeds.

SB 196-FN - relative to administrative revocation of motor vehicle licenses of persons under age 21.

SB 220-FN - relative to foster care.

SCR 2 - urging the federal energy Regulatory Commission to deny a rate increase for Public Service Company of New Hampshire.

### **HOUSE CONCURS WITH SENATE AMENDMENTS**

The House of Representatives concurs with the Senate in its amendment to the following entitled House Bills sent down from the Senate:

HB 133 - relative to the right to know law.

HB 242-FN - relative to the powers of county conventions.

HB 271-FN - to study the purchasing policies of the technical institute and the technical colleges.

HB 311 - confirming an exemption from registration for securities listed on the National Association of Securities Dealers Automated Quotation National Market System or on the Chicago Board Options Exchange.

HB 406 - relative to modification of support orders.

HB 684-FN-A - regarding the committee to study conservation and preservation of state historic flags and making an appropriation therefor.

HB 767-FN - to study access to group health insurance policies.

### **SENATE ACCEDES TO REQUEST FOR COMMITTEE OF CONFERENCE**

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:



HB 688 - relative to the Mount Washington Regional and the Berlin Municipal

Airports.

Senator Oleson moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Oleson, Dupont, Cohen.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Gene Chandler, Beaton Marsh, Lynn Horton, Dennis Kilbride.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 363-FN - relative to criminal record checks and fees charged for criminal record checks.

Senator Podles moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Hollingworth, Russman.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Donna Lee Lozeau, C. William Johnson, David Cote, Richard Campbell.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 307-FN - establishing a committee to review New Hampshire's bankruptcy laws.

Senator Podles moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, W. King, Russman.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Bonnie Packard, Patricia Fair, Anthony Syracuse, John Hunt.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 203-FN - relative to the confidentiality of quality assurance records of community mental health centers.

Senator J. King moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: J. King, Dupont, Russman.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Robert Foster, Alice Ziegra, Ann Torr, Kathryn Foster.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 330-FN - establishing a committee to study the issue of an office of the ombudsman for children.

Senator J. King moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: J. King, Fraser, Podles.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: William McCain, Valerie Cook, Deborah Woods, Lionel Johnson.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 486-FN - relative to collection of forfeitures of recognizances by the division of motor vehicles.

Senator Oleson moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:



SENATORS: Oleson, Russman, Heath.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Alf Jacobson, Kent Martling, Nancy Ford, Janet Wall.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 325-FN - relative to reciprocity of dog training.

Senator Heath moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Heath, Cohen, Bass.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Herbert Drake, Allen Wiggen, Paula Kinny, Joseph Schanda.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 572 - relative to exclusions in automobile insurance.

Senator Delahunty moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Delahunty, Bass, Hollingworth.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Richard Krueger, Patricia Foss, William Tsiros, Deborah Arnesen.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 352 - relative to oil discharge and disposal cleanup fund.

Senator W. King moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: W. King, Fraser, Heath.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Howard Dickinson, Mary Ann Lewis, Carol Stamatakis, Robert Holbrook.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 461-FN - relative to notice for out of district placement by the court.

Senator Podles moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Disnard, Hough.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Ellen Ann Robinson, David Connell, Josephine Mayhew, Harry Accornero.

The House of Representatives refuses to concur with the Senate in the adoption of its amendments to the following entitled House Bill sent down from the Senate:

HB 131-FN - relative to liability for acts which create situations requiring unnecessary emergency responses.

Senator Podles moved to accede.

The Senate President on the part of the Senate, has appointed as members of said Committee of Conference:

SENATORS: Podles, Russman, Hollingworth.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

REPRESENTATIVES: Richardson Benton, Robert Daly, David Welch, Richard Chasse.

### COMMITTEE REPORTS

**HB 619-FN**, an act relative to central business districts. Economic Development committee. Ought To Pass With Amendment. Senator W. King for the committee.

SENATOR W. KING: This bill allows central business districts to also include in their functions property related services such as the maintenance of public ways, sidewalk snow removal, landscaping and street cleanup. It also corrects a problem with the community



development finance authority's enabling law so that it gives them more flexibility in terms of addressing economic issues in the state of New Hampshire.

SENATOR NELSON: Does this allow them to tax? What does this word "activities" mean? Does "activities" mean tax? Could you please define "economically viable business environment" and what does "activities" mean?

SENATOR W. KING: Those are activities related to the maintenance of the central business district. So if a central business district that has already decided to become a business district holds a district meeting, as they are required to by law, they may then decide that they want to all go in together on snow removal or all go in together on landscaping of their central business districts. It allows them to do it, but the mechanism is already set up that describes how a central business district will go about its job.

SENATOR NELSON: Am I correct, Senator King, in understanding that the amendment on page 3 says "Amend the bill by replacing all after section 1" and that we are adding section 2?

SENATOR W. KING: Right.

SENATOR NELSON: So this whole new area . . .

SENATOR W. KING: Senator, maybe I can clear this up.

SENATOR NELSON: I hope you can. It's a four-page amendment.

SENATOR W. KING: This is not new legislation. This is legislation that already exists and has existed for some time now. You may even have been one of the original sponsors of the community development finance authority bill back in our days, in our first two years here in the legislature. All this does is make a correction to the community development finance authority law, so that it gives them more flexibility to promote economic growth in the state.

SENATOR NELSON: I don't mean to be taking too much time on the body, but here we have an amendment that is four pages long and we're repairing and reenacting the community development finance authority. Could you just give us a little hint of what that is? Is that a tax credit or what?

SENATOR W. KING: The community development finance authority, Senator Nelson, is essentially a community development corporation that works on economic development and housing issues. It was originally instituted nine years ago by the legislature. Since then there has been a problem in getting it rolling because there are really two corporations that were created when we enacted the bill.

One was a non-profit and one was a for-profit corporation. We are eliminating the for-profit corporation side and going strictly with the non-profit corporation.

SENATOR NELSON: You mention in the bill, "economically viable business environment", and you go on to say on line nine "these services and activities". Would I understand the word "activities" to include taxes, the ability to tax?

SENATOR W. KING: The ability to tax a central business district is already codified in New Hampshire law, just as the ability for a central business district to tax itself is already codified in law.

SENATOR HUMPHREY: This Senator was not here when the authority was created. What is the source of funds for this authority?

SENATOR W. KING: The source of funds are private contributions and grants and donations. There is no state funding.

SENATOR HUMPHREY: There is no bonding authority?

SENATOR W. KING: No.

SENATOR HUMPHREY: The change seems to be to add the words "inadequate housing". Is that the thrust of the change?

SENATOR W. KING: That is the thrust of the changes, to say that they are to deal with the economic issue, not only from the standpoint of business development, but also housing, making sure that there is adequate housing available for those who are employed in business development.

SENATOR ROBERGE: I am concerned about inadequate housing. Because of the economic downturn, we have all kinds of unoccupied housing. Will this study committee encourage more building when we already have a surplus of buildings?

SENATOR W. KING: First, this is not a study committee. This is a community development corporation that is already in existence. This will allow them, to some degree, to expand their authority in terms of how they address economic development and economic growth issues throughout the state of New Hampshire and recognize that the aspect of housing is equally important to the aspect of business growth in terms of providing adequate housing for people who work in these jobs. There is no intent to encourage new developments when we already have an excess housing capacity in the state of New Hampshire.

SENATOR PRESSLY: Senator King, page 3 of the amendment, on the first portion it is easy to understand what is being changed be-



cause the words are highlighted. You have added "and inadequate housing". But from there on it is very difficult for me to see the changes.

SENATOR W. KING: That is because there were no changes.

SENATOR PRESSLY: That is what I wanted to know. So are you saying that in the amended form relative to restructuring of the authority the only change from existing law is the highlighted portion on page three? Everything following that is in current law?

SENATOR W. KING: The answer to that is yes, Senator Pressly, except that there is also being eliminated the for-profit side. There are two sides to this entity. There is a for-profit side that people felt was in competition with the private sector, and so that was eliminated.

SENATOR PRESSLY: Does that show in here in parenthesis as it usually does?

SENATOR W. KING: No.

### Amendment to HB 619-FN

Amend the title of the bill by replacing it with the following:

#### AN ACT

relative to central business districts and the  
community development finance authority.

Amend the bill by replacing all after section 1 with the following:  
2 Community Development Finance Authority Act; Legislative Findings. Amend 1983, 326:2 to read as follows:  
326:2 Legislative Findings.

I. The legislature finds that areas of underemployment **and inadequate housing** exist in the state and that each area is inimical to the safety, health and welfare of the residents of the area and of the state. In addition, such areas of underemployment **and inadequate housing** decrease the value of private investments and threaten the sources of public revenue. Because of the economic and social interdependence of communities, the economic and industrial development of all municipalities of the state is substantially impaired. The development or redevelopment of these areas of underemployment **and inadequate housing** requires the stimulation of private investment in these areas.

II. Industries located in the state have been induced to move or cease their operations with a resulting loss of primary employment and increased unemployment. Economic insecurity due to loss of primary employment is a serious menace to the general welfare of not

only the people of the affected areas but of the people of the entire state. Unemployment results in obligations to grant public assistance and in the payment of unemployment compensation. The absence of primary employment opportunities has caused workers and their families to migrate elsewhere to find work and establish homes. This has resulted in a reduction of the tax base of municipalities and the consequent impairment of their financial ability to support education and other local government services.

III. The economic problems within these areas are beyond remedy and control solely by regulatory process and the exercise of police power. These problems cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided in this act. Increasing the number of development projects in areas where primary employment is threatened[,] **and housing is inadequate, and** providing capital to business ventures within these areas, and stimulating private investment in these areas are public uses and purposes for which public money may be expended and invested.

3 Community Development Finance Authority. RSA 162-L is repealed and reenacted to read as follows:

## CHAPTER 162-L

### COMMUNITY DEVELOPMENT FINANCE AUTHORITY

162-L:1 Definitions. In this chapter, the following terms shall have the following meanings, unless the context indicates another meaning or intent:

I. "Authority" means the community development finance authority established by RSA 162-L:2.

II. "Community development corporation" means a nonprofit corporation, organized under the laws of the state to carry out certain public purposes and with bylaws providing that:

(a) The corporation shall be organized to operate within specific geographic boundaries.

(b) Membership in the corporation shall be open to all residents of the target area who are 18 years of age or older; membership may be open to persons outside the target area, but voting membership of persons not residing in the target area shall be limited to 10 percent of the total membership.

(c) The corporation shall have a board of directors, a majority of whom reside in a target area or are members of a target population, 2/3 of whom are elected by the membership, with each member having an equal vote.

(d) The corporation shall make a demonstrable effort to hire low income or underemployed residents of the operating area.



(e) The corporation shall impose an annual individual membership fee of not less than \$1 nor more than \$10.

III. "Other nonprofit organizations and municipal governments involved in community development" means a nonprofit organization organized under the laws of the state or municipal government to carry out purposes related to community development, improvement, revitalization, or other activities consistent with the purposes of this chapter.

IV. "Cost of a project" means any and all costs associated with the design, planning, and implementation of a project undertaken in a target area or with a target population which can reasonably be recovered in the financing of the project. Such costs may include, but are not limited to, the costs of planning and design, options to buy land, feasibility or other studies, seed money, construction, working capital, and any other costs determined by the authority to be necessary for the purposes of this chapter.

V. "Employee cooperative" means a corporation in which the power to elect at least 2/3 of the corporation's directors is held by the employees and in which such elections are held on a one person-one vote basis.

VI. "Other type of cooperative" means any corporation in which the power to elect the governing body is held by the members of the corporation and in which elections are held on a one person-one vote basis. This may include cooperatives such as housing cooperatives and consumer cooperatives.

VII. "Low income" means an income equal to or less than 125 percent of the federal poverty guidelines, as established by the Bureau of Labor Statistics lower level budget.

VIII. "Primary employment" means work which pays at least 1-1/2 times the minimum wage as established under RSA 279:21 or under federal law, whichever is greater, which offers adequate fringe benefits, including health insurance, and which is not seasonal or part-time.

IX. "Project" means any commercial, industrial, or real estate business or other economic activity designed to create or preserve primary employment for low income people or to reduce conditions of blight, economic depression, or widespread reliance on public assistance in a target area or of a target population.

162-L:2 Community Development Finance Authority.

I. There is hereby established the community development finance authority, a body corporate and politic. The authority is constituted a public instrumentality of the state. The exercise by the authority of the powers conferred by this chapter shall be deemed

and held to be the performance of essential governmental functions. The authority shall be a nonprofit corporation organized under RSA 292.

II. The authority shall be governed by a board of 11 directors which shall include the commissioner of the department of resources and economic development or designee, and 10 public members appointed by the governor and council as follows:

(a) Four representatives of community development corporations or other nonprofit organizations engaged in community development activities.

(b) One representative of organized labor.

(c) Two representatives of small business and the financial community.

(d) One representative of employment training programs.

(e) Two representatives of private financial institutions.

III. The 10 appointed members of the board of directors shall serve for 5-year terms. If a vacancy occurs on the board of directors, the governor and council shall appoint a person to serve the remainder of the term. A member of the board of directors may be reappointed.

IV. The members of the board of directors shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in performing their duties.

#### 162-L:3 Board of Directors; Organization.

I. Upon appointment of the members of the board of directors and annually thereafter, the members shall elect, from among the members, a chairman and a vice-chairman and shall designate a secretary-treasurer who need not be a member of the board.

II. The secretary-treasurer shall keep a record of the proceedings of the authority and the board of directors and shall be the custodian of all books, documents, and papers filed with the authority, the minute books of the authority, and its official seal.

III. A majority of the directors shall constitute a quorum, but no power of the authority shall be exercised without a majority vote of the full board of directors. The authority shall employ an executive director; legal, financial, and technical experts; and other persons as it may require. The authority shall determine the qualifications, duties, and compensation of its employees.

#### 162-L:4 Powers and Duties of the Authority.

I. The authority shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter and may:

(a) Adopt bylaws and rules for the regulation of its affairs and the conduct of its business.



(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Maintain an office.

(e) Accept from any source loans, contributions, or grants to aid the authority in the conduct of its affairs.

(f) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions.

(g) Acquire real property or an interest in real property, by purchase or foreclosure, when such acquisition is necessary or appropriate to protect or secure any investment in which the authority has an interest; to sell, transfer, and convey any such property to a buyer and, in the event such sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant.

(h) Issue grants to finance operating or other costs of community development corporations and employee cooperatives under RSA 162-L:5.

(i) Provide technical assistance to community development corporations, other nonprofit organizations involved in community development activities, and employee and other types of cooperatives.

(j) Invest in or lend to any community development corporation, other nonprofit organizations involved in community development, or employee or other type of cooperative for a specific project if the authority finds that the project meets the following conditions:

(1) The project shall be within the scope of this chapter and may reasonably be expected to contribute to the development or redevelopment and economic well-being of target areas or target populations, to contribute to the economic development of the state, or to increase or maintain threatened primary employment or to provide affordable housing opportunities to low and moderate income people. Strong preference is given to housing projects which provide for the permanent affordability of the housing units through such legal mechanisms as deed restrictions, equity limitation formulas, or land leases.

(2) The project shall conform to all applicable environmental, zoning, building, planning or sanitation laws.

(3) The project shall be of public benefit and for a public purpose. The benefits, including increased or maintained primary employment and improved standard of living, shall primarily accrue to a target area or target population.

(4) There shall be a reasonable expectation that the project will be successful.

(5) Private industry shall have not provided sufficient capital required for the project or sufficient primary employment opportunities in the project's area.

(6) The authority shall determine that its participation is necessary to the successful completion of the proposed project because adequate funding for the project is unavailable in the traditional capital markets or because credit has been offered on terms that would preclude the success of the project.

(7) The proceeds of the purchase or contract shall be used solely in connection with the costs of the project.

(8) Provision shall have been made by contract for adequate reporting of financial data from the community development corporation, other nonprofit organizations involved in community development, or employee or other cooperative to the authority. Such provisions may include a requirement for an annual or other periodic audit of the project books.

(9) Provision has been made that should the authority desire to sell or otherwise dispose of the capital participation instrument obtained by contract, the community development corporation, other nonprofit organizations involved in community development, or employee or other types of cooperatives, or its nominee, shall have for 120 days the right of first refusal upon the sale or disposal and the right to meet any subsequent bona fide offer by a third party.

(10) The project shall not result in a substantial increase in unemployment in the area of original location of any business or establishment relocated as part of the project.

(k) Exercise any other powers, rights or responsibilities necessary to effectuate the purposes of this chapter.

II. The findings of the community development finance authority company under this section shall be conclusive and may not be appealed.

#### 162-L:5 Technical Assistance; Grants.

I. The authority shall provide technical assistance to community development corporations, other nonprofit organizations involved in community development, and employee and other types of cooperatives and to persons forming such organizations. Technical assistance includes, but is not limited to, assistance with respect to organizational development, economic development planning, community education, financial planning or packaging, the development of grant or other applications, market research, business plan development or review, management training, and such accounting and legal services as may be necessary to enhance or render effective any of the foregoing. Such assistance may be provided by the authority directly by staff or other agents of the authority or through contract with a third party.



II. The authority may award grants to community development corporations, other nonprofit organizations involved in community development activities, and employee and other types of cooperatives to fund their operating costs or other costs of projects including, but not limited to, costs incurred for planning, feasibility or other studies, consultants, technical assistance, or educational or publicity programs. The authority shall award the grants to further the purposes of this chapter. The authority shall review applications for grants based upon need, effectiveness in encouraging the development of community development corporations, other nonprofit organizations involved in community development activities, and employee or other types of cooperatives, effectiveness in assisting in the attainment of capital for the development of the operating area of the organization or cooperative, and the extent to which the grant will encourage the exchange of information among community development organizations and cooperatives.

162-L:6 Reporting Requirements. On or before September 1 of each year, the authority shall submit an annual report of its activities for the preceding fiscal year to the governor, the president of the senate, the speaker of the house of representatives and the state treasurer. The report shall set forth a complete operating and financial statement of the authority during such year. The authority shall cause an audit of its books and accounts to be made each fiscal year.

162-L:7 Liberal Construction. The provisions of this chapter shall be interpreted and construed liberally in aid of its declared purpose.

162-L:8 Investment Tax Credit. A taxpayer shall be allowed an investment tax credit, to be computed as hereinafter provided, against the tax imposed by RSA 77-A or any franchise tax paid by a business in lieu of the business profits tax. Any corporation, individual or partnership who or which contributes an amount to the authority may credit against taxes otherwise due an amount equal to 75 percent of the contribution. The credit received under this paragraph shall not exceed 75 percent of the contribution to the authority. Any corporation, individual or partnership receiving a credit under this section may carry forward to succeeding taxable years the amount of the credit not offset against taxes for the year of purchase.

4 Investment Tax Credit. Amend RSA 77-A:5, V to read as follows:

V. The investment tax credit as computed in RSA [162-L:10] 162-L:8.

5 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill expands the services and activities a municipality may provide in a central business service district.

This bill also restructures the community development housing finance authority.

Amendment Adopted.

Ordered To Third Reading.

**HB 451**, an act relative to the licensing of residential care and health facilities. Public Institutions, Health & Human Services committee. Ought To Pass With Amendment. Senator McLane for the committee.

**SENATOR MCLANE:** This bill, passed by our committee, clarifies matters about the facilities used for licensed residential care. It also makes clear that temporary medical help can be given to residents in a licensed residential care facility and they do not have to comply with the strict standards of a nursing home. The bill was requested by the Division of Public Health and it is the wish of our committee that this pass.

**SENATOR PODLES:** The vote in committee for HB 451 was 3-1 and I was the one who opposed the bill. I do not to hesitate to stand alone in these fiscally restrained times to tell you what the potential impact this bill will have on the state's and county's Medicaid budget. There is a hidden agenda here and they are not telling you. The fiscal note is not realistic. It does expand Medicaid reimbursement. OBRA, which is the Omnibus Reconciliation Act of 1990, which is now law, states that the states can use federal Medicaid funds for low-income elderly in assisted living facilities and some of the private paying patients pay for their keep, but when they send down their money they will be eligible to take advantage of OBRA 1990 if they are in the assisted living facility. The state and counties must contribute to their share and the breakdown is 50 percent from the feds, 19 percent from the state and 31 percent from the county. The state did not estimate the cost on HB 451 and I believe that there is a potential impact on the Medicaid budget both for the county and the state. I believe that we should have a reexamination of this bill. There are real constitutional issues involved if increased costs are to be mandated by expanded Medicaid programs without an agreement by the state that it will assume these additional costs. Property taxpayers are now paying 31 percent of Medicaid. On your desk is a piece of paper that has been provided Representative Arnesen



to our committee and I have been given permission by her to use this in the Senate. It deals with the fiscal crisis in New Hampshire and it tells the Medicaid share of our state, not the federal match, but our state share. Where it used to cost us \$20,000,000 in 1980, it is now costing us \$113,000,000. We have seen more than a tripling in costs. We are not seeing an increase in the number of people that we are serving and look at the last line that has been highlighted for you. That last line is our entire Business Profits Tax, less what we have for Medicaid. You will notice a tragedy in 1990. In 1990, for the first time, the state of New Hampshire could not cover one line item from the budget. That's the Medicaid line item with the entire amount that we produce with the Business Profits Tax. That is a horror story. What that is beginning to tell you is that before we address anything else, the black hole of the budget is the Medicaid hole and I would urge you to take a look at HB 451.

SENATOR MCLANE: Senator Podles, I, too, agree with you that Medicaid is the black hole that much of the problem that Senator Blaisdell has today comes from; but it is my impression that this bill, because it would cause the department to comply with the federal nursing home reform act, is essential to receiving Medicaid reimbursement. In truth, what it does by appropriately placing people, such as Alzheimer's patients, in homes at the level for the care they need, is that it actually saves money. It prevents people being sent into higher and higher grades of care when it isn't necessary to their care. So although I agree with you that Medicaid is a tremendous burden on this state, it is my impression from listening to Cathy Sgambati and people and Dr. Harry Bird that this is, in truth, one of the most important pieces of legislation for saving money from Medicaid.

SENATOR PODLES: Senator McLane, all you have to do is turn to the back of your bill and see what the impact statement says. There is no financial impact statement provided and that is my concern and I think it should be the committee's concern also.

#### **Amendment to HB 451-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

relative to the licensing of residential care and health facilities  
and establishing a committee to study RSA 151:21.

Amend the bill by replacing section 9 with the following:

9 New Paragraph; Rulemaking. Amend RSA 151:9 by inserting after paragraph VI the following new paragraph:

VII.(a) The rules adopted under RSA 151:9, I for residential care facilities shall, in establishing licensure classifications, recognize the following licensure levels which correspond to a continuum of care requiring different programs and services to assure quality of life in the least restrictive environment possible:

(1) Residential care, requiring a minimum of regulation and reflecting the availability of assistance in personal and social activities with a minimum of supervision or health care, which can be provided in a home or home-like setting.

(2) Supported residential health care, reflecting the availability of social or health services, as needed, from appropriately trained or licensed individuals, who need not be employees of the facility, but shall not require nursing services complex enough to require 24-hour nursing supervision. Such facilities may also include short-term medical care for residents of the facility who may be convalescing from an illness and these residents shall be capable of self-evacuation.

(3) Nursing facilities providing a range of social and health services, including 24-hour-a-day supervision and the provision of medical care and treatment, according to a plan of care, by appropriately trained or licensed individuals who are employees of or who are under contract to the facility.

(4) Special needs residential facilities, other than specialty hospitals, which, in addition to meeting the criteria of subparagraph (1), (2), or (3), reflect the availability of specialized supervision and treatment appropriate to the needs of the residents being cared for by appropriately trained or licensed individuals.

(b) Additional levels of classification may be established within each major level, and a facility may hold more than one license. The director of the division of public health services may, in adopting rules under RSA 151:9, I, establish limits on the number of residents to be cared for at different licensure levels.

Amend the bill by replacing section 11 with the following:

11 Committee Established.

I. A committee is hereby established to review RSA 151-21, relative to the Patients' Bill of Rights, and to recommend any changes necessary in its applicability to health facilities licensed under RSA 151. The members of the committee shall be as follows:

(a) Two members of the house, appointed by the speaker of the house.

(b) Two members of the senate, appointed by the senate president.

(c) One member, appointed by the New Hampshire Hospital Association.



(d) One member, appointed by the New Hampshire Health Care Association.

(e) One member, appointed by the New Hampshire chapter of the American Association of Retired Persons.

(f) One member, appointed by the Alliance for the Mentally Ill of New Hampshire.

(g) One public member, appointed by the governor.

(h) One member, appointed by the Developmental Rights Center.

(i) One member, appointed by the New Hampshire Association of Residential Care Facilities.

(j) One member, appointed by New Hampshire Legal Assistance.

II. The committee shall report its findings and recommendations for legislation to the speaker of the house and the senate president on or before November 1, 1991.

### AMENDED ANALYSIS

This bill clarifies the facilities which are to be licensed under RSA 151 and the levels of licensure for certain residential care facilities. The bill also clarifies the procedures for inspections, investigations and issuing warnings for noncompliance with the licensure requirements for health facilities.

The bill also establishes a committee to study RSA 151:21, relative to the Patients' Bill of Rights.

Amendment Adopted.

Referred To Finance (Rule #24).

**HB 613**, an act relative to the procedures of the certificate of need board. Public Institutions, Health & Human Services. Ought To Pass With Amendment. Senator Podles for the committee.

SENATOR PODLES: HB 613 makes the following procedural changes: an addition to the Certificate of Need Board. First, it makes a change in the threshold, which is the dollar amount. It brings the profit under the CON review. Hospital projects of \$1.5 million or more will now be reviewed. Nursing homes will stay at the \$1,000,000 threshold. The alteration of these facilities shall be adjusted annually to reflect inflation. The bill also proposes a change in the notice requirements. Currently the Certificate of Need Board is required to give direct notice by mail to everyone; however, it is now going to be changed and they will begin to put newspaper notices through state — wide newspapers. That is supposed to save them \$4,500. The amendment changes the time frame for nursing bed con-

versions from two years back to five years. The conversion of beds will impact Medicaid so in fact it will increase costs to the state, local and county governments and the committee recommends ought to pass with amendment.

### **Amendment to HB 613-FN**

Amend RSA 151-C:5, II(e) as inserted by section 6 of the bill by replacing it with the following:

(e) The increase or conversion of inpatient beds resulting in an increase of more than 10 beds or 10 percent of the total bed complement, whichever is less, during a 5-year period[.];

### **AMENDED ANALYSIS**

This bill makes the following changes and additions to the certificate of need law:

(a) Changes the threshold for a certificate of need for construction, renovation, expansion or alteration of any acute care health facility to \$1,500,000, adjusted annually to reflect inflation.

(b) Adopts a threshold of \$1,000,000, for a certificate of need for nursing homes, specialty hospitals and all other health facilities. The threshold for construction, development, expansion, or alteration of these facilities shall be adjusted annually to reflect inflation.

(c) Establishes notice requirements by newspaper for solicitation of requests for applications, standard development, and rulemaking.

(d) Eliminates comprehensive mailing lists.

(e) Establishes a time frame for completeness review of amended applications.

(f) Clarifies the function of ambulatory surgical facilities.

Amendment Adopted.

Ordered To Third Reading.

Senators Colantuono, Heath, Podles, and Russman opposed to HB 613.

**HB 733-FN**, an act establishing a study committee to study public assistance. Public Institutions, Health & Human Services. Ought To Pass With Amendment. Senator McLane for the committee.

**SENATOR MCLANE:** The last thing we felt we needed was a study committee on welfare, but as this bill progressed through the House, it became obvious that there is a section of the welfare problem that does need to be studied and that is the coordination between town and city and state welfare and for that reason, because it is found that when state welfare fails, the cities and towns pick it up, the Municipal Association and others felt that this was a necessary bill. So with that focus we feel it should go forward.



**Amendment to HB 733-FN**

Amend paragraphs I(a) and I(b) of section 2 of the bill by replacing them with the following:

**2 Membership.**

I. The committee shall consist of the following:

(a) Two members of the house, appointed by the speaker of the house, one of whom shall be a member of the health, human services and elderly affairs committee.

(b) Two members of the senate, appointed by the president of the senate, one of whom shall be a member of the public institutions, health and human services committee.

Amend the bill by replacing section 4 with the following:

4 Duties. The committee shall examine programs and services provided through public assistance at the state level under RSA 161 and RSA 167, and through general assistance at the city and town level under RSA 165, in order to identify problems arising from the interaction of state and local welfare and to make recommendations to address these problems.

Amend the bill by replacing section 7 with the following:

7 Compensation. The members of the committee shall serve without compensation, except that the legislative members shall receive mileage at the legislative rate when attending to the duties of the committee and the members appointed under paragraph 2, II(e), and (f) shall be reimbursed for transportation costs from funds appropriated for the expenses of the legislature.

Amend the bill by inserting after section 7 the following and renumbering the original section 8 to read as 9:

8 New Paragraph; General Assistance Restriction Added. Amend RSA 165:1 by inserting after paragraph II the following new paragraph:

III. Whenever a town provides assistance under this chapter, no such assistance shall be provided directly to a person or household in the form of cash payments.

**AMENDED ANALYSIS**

This bill establishes a committee to study public and general assistance in New Hampshire cities and towns.

This bill also prohibits general assistance payments in the form of cash.

Amendment Adopted.

Ordered To Third Reading.

**HB 502-FN-A**, an act relative to child care resource and referral systems and making an appropriation therefor. Public Institutions, Health & Human Services. Ought To Pass. Senator McLane for the committee.

**SENATOR MCLANE:** This is a good buy for a dollar. The child care study committee that has met for a couple of years felt that a system of training of child care workers — and that is what the resource is — and a referral system so that people could learn how to pick appropriate daycare was what was needed. Secondly, to find lists of daycares that did come up to code was also needed. Those needs were the first needs as the daycare people suggested. Obviously, the fiscal note that was in there is not something that is forthcoming. There are federal funds coming down for use at daycare and this is their first priority for those funds. They have to be new programs, the federal daycare funds, and this is their feeling that it should be used for training and for some sort of referral system. The Committee on Children and Youth in the House gave this its unanimous support.

**SENATOR HUMPHREY:** Senator, where does this \$1.3 million come in?

**SENATOR MCLANE:** That was the study committee's projection of what they needed to form a division as part of the Division of Public Health, for a system of resource and referrals for daycare. And that was their original projection, that has now been changed to \$1. The hope is that with a plan in mind within the Division of Public Health that when the federal daycare grants come down, which I believe is \$1.4 million for the state of New Hampshire, that a portion of that money could go towards this project which is the wish of the daycare study committee as their first priority. It will allow people to start new daycares, to go back in for training, and if someone moved into this state or moved from one part of the state to the other, they would be able to go to a resource and referral center which will tell you where the qualified daycares within each community are.

**SENATOR HUMPHREY:** Senator, are you saying that of this \$1.3 million, that \$343,000 will go to this?

**SENATOR MCLANE:** That is the hope. Obviously, if we just pass this bill with a dollar, what we are saying is that this is our suggestion for use of those federal funds. They will first have to be accepted by the Governor's Council, and Harry Bird already has several ideas for the use of the money. Then it will have to go to the Fiscal Committee. So this does not guarantee in any way that this



money would go for this purpose. It is just that the study committee feels that this is their first priority for that purpose.

SENATOR HUMPHREY: This bill sets up a child care resource and referral agency, is that correct?

SENATOR MCLANE: It directs the Division of Public Health to establish, maintain and direct a system of child care resources and referral agencies. That would include training for people who have licensed daycare and it would include a listing of all the daycare available in the state. So, for instance, if a business wanted to move into New Hampshire, they might want to know how many daycare places there are in Pittsfield and which have been licensed.

SENATOR HUMPHREY: So it will list those daycare facilities that are licensed by the state?

SENATOR MCLANE: Licensed or perhaps unlicensed.

SENATOR HUMPHREY: Including some that are not licensed?

SENATOR MCLANE: Well, anyone who takes three children or less into their home is not licensed.

SENATOR HUMPHREY: Well, you say some which are unlicensed will be included.

SENATOR MCLANE: That is what I meant.

SENATOR HUMPHREY: How will it be determined which unlicensed facilities are to be listed and which ones are not.

SENATOR MCLANE: I would assume that they would ask if they would like to be listed.

SENATOR HUMPHREY: Senator Blaisdell, the bill appropriates \$1. Can you tell us the intent of the finance committee?

SENATOR BLAISDELL: Senator Humphrey, I could not tell you the intent of the committee. I am only one member. You seem to think that I am all five votes on that Finance Committee. I am not. There are five members of the Finance Committee that will take a look at the bill. Maybe this does not have the top priority that we have in other sections of our budget. Next week, by the way, starting Tuesday and Wednesday, I believe, you will have the opportunity to come in and talk to us about sections 5 and 6 of the budget. Section 5 is Health and Human Services and section 6 is education and you could tell us about your priorities then. I have just received the bill. It's got a dollar in it and I think it is worth time to look at it, but I can't tell you what priorities the Senate Finance Committee will set. Obviously, Senator, we have some very serious problems down

there to be able to fund exactly what we have right now. This would not be, I would say, a top priority, but I think it deserves the time and the effort for Finance to look at it.

Adopted.

Referred To Finance (Rule #24).

**HB 212-FN**, an act relative to black bear hunting licenses. Wildlife & Recreation committee. Ought To Pass With Amendment. Senator Heath for the committee.

**SENATOR HEATH:** This deals with the lifetime resident combination license. What we did was we struck the fee, but kept a special bear permit as a separate thing so that we would have an inventory on what pressures were being put on the resource, but not violate the lifetime contract that we granted, and lifetime licenses where bear hunting was part of that original lifetime license. So I think the department agrees and I think those who were concerned that they were going to get an extra charge on top of their lifetime license, that their desires have been satisfied and I urge the Senate to go along with it.

#### **Amendment to HB 212-FN**

Amend RSA 214:9-c, VII as inserted by section 1 of the bill by replacing it with the following:

VII. The executive director shall issue a bear license and tag upon application by the valid holder of a lifetime license. Such license and tag shall be valid for the current bear season only. The bear license and tag shall be issued at no charge and each shall be of a type and design approved by the executive director. Lifetime licensees holding bear licenses shall comply with all provisions of RSA 208 relative to tagging, transportation and possession of bear.

Amendment Adopted.

Ordered To Third Reading.

**HB 54**, an act relative to the laws regarding children in need of services. Public Institutions, Health & Human Services committee. Inexpedient To Legislate. Senator J. King for the committee.

#### **SUBSTITUTE MOTION**

Senator Bass moved a Substitute motion of Ought To Pass for Inexpedient To Legislate.

**SENATOR BASS:** I would like to draw the Senate's attention to Floor Amendment 2888L, which is the amendment that I wish to present at this time. The Committee was presented with a bill from the House that essentially seeks to revise and reform the program



that we currently have in this state to assist children in need of services. It had come to the attention of legislators and others that the current CHINS program had been thought by some to be expensive, inflexible, and in many cases ineffective. As a result of a lot of study which the committee did and some controversy, the committee has decided that instead of killing this bill outright we wish to form a special study committee consisting of two House members, two Senators, a public member appointed by the Speaker of the House, another one appointed by the President of the Senate and a gubernatorial public appointee to do a serious, in-depth look at this bill, in hopes that we can come back with a good bill that we could all agree on in the next session. I urge the Senate's adoption of the floor amendment and the subsequent report of Ought to Pass as Amended.

Senators Bass and Delahunty offered a floor amendment.

SENATOR MCLANE: I am happy to go along with the amendment to this bill partly of as courtesy to the President of the Senate, but also, because I know that his motives are the same as mine and that is that we care about kids, particularly kids in trouble. This bill as it was originally put in by the Governor's office was, to me, a social disgrace. It meant to take \$5.6 million out of the CHINS program and stick it on the backs of the cities and towns, and for that reason, although the House worked very hard to make some changes in the bill, our committee decided that it would be expedient to send a signal to the Governor and to the Appropriations and Finance people that we would not balance the state budget on the backs of kids in trouble. Partly, because it is not good for the kids, but mostly because it isn't good for society. If you don't invest in children you are going to pay in the long run and I think the debate on Camp Success is going to prove that. For that reason we felt that we should make it inexpedient because we were bothered that the Governor still carries in his budget, as he presented to us yesterday, \$5.6 million less for CHINS in 1993. We found that inexcusable and we don't want to be party to that. What we are asking for today is a committee of responsible legislators and responsible community people who want to put their brains not to saving money on the backs of kids, but to really helping kids and the philosophy of preserving families and the philosophy of working with kids to keep them out of trouble. Those are the problems we want to work on and so when I say we stand in support of a study committee today, I want to make it very clear that we do not want to see that bill coming back over from the House as passed this session. We want a study committee and we

want a study committee of people who care about doing the best by families, rather than by people who are interested in \$5.6 million out of the Governor's budget.

SENATOR DISNARD: Would you believe, I understand the Governor's office is interested in this going to study. If that is true, can you assure me that the CHINS budget will not be lowered but will at least be level funded for the next year?

SENATOR MCLANE: Senator Disnard, I can't assure you anything about the Governor's office, but I will say that I do believe the promise of the Senate President that people will be appointed to this committee who care about kids and don't care about cutting budgets on the backs of kids. And what I want to make very clear is that the bill as it was originally presented said that the courts no longer had any jurisdiction over families, and that families in trouble would go to voluntary services and that you would not have the guarantee of funding that the CHINS program presently gives. So we knew who was going to pay — the cities and towns, because you can't turn delinquents loose on the street with no one taking care of them. I cannot speak for the Governor by any manner or means and I do tell you that the \$5.6 million is out of the second year of his budget. But, I do not plan to be a party to this and I hope that the study committee won't be.

### **Floor Amendment to HB 54-FN**

Amend the title of the bill by replacing it with the following:

#### **AN ACT**

establishing a committee to study the laws regarding  
children in need of services.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established to Study the Laws Regarding Children in Need of Services. A committee is hereby established to study and make recommendations concerning the laws regarding children in need of services and the proposals of HB 54-FN of the 1991 legislative session as introduced and as amended by the house of representatives. The committee shall consist of the following members:

- I. Two house members, appointed by the speaker of the house.
- II. Two senators, appointed by the senate president.
- III. One public member, appointed by the speaker of the house.
- IV. One public member, appointed by the senate president.
- V. One public member appointed by the governor.



VI. The director of the division for children and youth services, or designee.

2 Appointments; Chair; Mileage. Appointments shall be made to the committee within 30 days of the effective date of this act. The members shall elect a chair at the first meeting. Legislative members shall receive mileage at the legislative rate.

3 Report. The committee shall submit a report on its findings and recommendations for legislation to the speaker of the house, the senate president, and the governor on or before December 1, 1991.

4 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study the laws regarding children in need of services and the proposals made in HB 54-FN of the 1991 legislative session. The committee is required to submit a report to the speaker of the house, the senate president, and the governor on or before December 1, 1991.

Floor Amendment Adopted.

Ordered To Third Reading.

### SUSPENSION OF THE RULES

Senator Fraser moved that the Rules of the Senate be suspended to dispense with the notice of a committee report in the calendar, and that HB 173-FN be put on Second Reading at the present time.

Adopted.

**HB 173-FN**, establishing a committee to study certain provisions of RSA 154 relative to powers and duties of firewards. Executive Departments committee. Ought To Pass. Senator Fraser for the committee.

SENATOR FRASER: HB 173 creates a study committee. Apparently, RSA 154, the powers and duties of firewards, has not been reviewed for quite a few years. As a result of some of the changes in the fire system, there has been some confusion about certain areas. Under the terms of the bill, there has been a study committee established to study the existing laws under RSA 154 and we urge its adoption.

SENATOR DISNARD: Senator Fraser, would you believe that it makes no difference to me but there are two members of the House and only one member of the Senate on that committee. Sometimes that has bothered members of the Senate, but since it is only a study committee maybe it's alright.

Adopted.

Ordered To Third Reading.

### **SUSPENSION OF THE RULES**

Senator Fraser moved that the Rules of the Senate be suspended to dispense with the notice of a committee report in the calendar, and that HB 348-FN be put on Second Reading at the present time.

Adopted.

**HB 348**, relative to the municipal records board. Executive Departments committee. Ought To Pass. Senator Fraser for the committee.

**SENATOR FRASER:** All this bill does is add the state records manager to the municipal records board and we urge its adoption.

Adopted.

Ordered To Third Reading.

### **SUSPENSION OF THE RULES**

Senator Fraser moved that the Rules of the Senate be suspended to dispense with the notice of a committee report in the calendar, and that HB 304-FN be put before the Senate at the present time.

Adopted.

**HB 304**, relative to escrow of funds raised through sale of certain types of securities and to certain conditions for sale of securities. Banks committee. Interim Study. Senator Fraser for the committee.

**SENATOR FRASER:** When we heard this bill it became somewhat confusing as to what the bill would do and what it might not do. It was a consensus of the committee that the bill, with the blessings of the sponsor, be sent to Interim Study.

Interim Study.

### **SUSPENSION OF THE RULES**

Senator Heath moved that the Rules of the Senate be suspended to dispense with the notice of a committee report in the calendar, and that HB 456 be put before the Senate at the present time.

Adopted.

**HB 456**, prohibiting bear baiting. Wildlife & Recreation committee. No Recommendation. Senator Heath for the committee.

Senator Heath moved to have HB 456, Laid On The Table.



Adopted.

HB 456, IS LAID ON THE TABLE.

### SUSPENSION OF THE RULES

Senator Podles moved that the Rules of the Senate be suspended to dispense with the notice of a committee report in the calendar, and that HB 608-FN be put on Second Reading at the present time.

Adopted.

**HB 608-FN**, relative to the law enforcement authority of forest rangers and officials of the division of forest and lands. Judiciary committee. Ought To Pass. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** The committee on Judiciary would move Ought to Pass on HB 608. This bill would allow forest rangers, after certification as part-time law enforcement officers, to prosecute violators of forestry laws. It is a cost-saving measure in that the forestry division will be able to prosecute their own cases. The officers will not be eligible for higher salary grade because it is strictly for part time only. The bill allows for a portion of the fines to be returned to the division to pay for the cost of the additional training that will be required. This is consistent with the statutes for fines.

Adopted.

Ordered to Third Reading.

### SUSPENSION OF THE RULES

Senator Delahunty moved that the Rules of the Senate be suspended to dispense with the notice of a committee report in the calendar, and that HB 658-FN be put before the Senate at the present time.

Adopted.

**HB 658-FN**, relative to uninsured or hit-and-run motor vehicle coverage. Insurance committee. Inexpedient To Legislate. Senator Hollingworth for the committee.

**SENATOR HOLLINGWORTH:** On HB 658, the Committee on Insurance moves Inexpedient to Legislate. The reason for the committee's vote was that we believe that there is present law that addresses the problem.

Committee Report Adopted.

**SUSPENSION OF THE RULES**

Senator Oleson moved that the Rules of the Senate be suspended to dispense with the notice of a committee report in the calendar, and that HB 700-FN be put on Second Reading at the present time.

Adopted.

**HB 700-FN**, relative to highway planning corridors. Transportation committee. Ought To Pass. Senator Currier for the committee.

**SENATOR CURRIER:** This bill authorizes the state and local units of government to create highway planning corridors within which public highways are to be designated and laid out in the near future, and to impose temporary development restrictions upon land within such corridors. This bill was a request of the Department of Transportation and is another planning tool in terms of developing corridors of the state highway system. We would urge the full Senate support in the passage of the bill.

**SENATOR DISNARD:** Senator Currier, how does this bill interpret the term "temporary"?

**SENATOR CURRIER:** This will be a publicly appointed authority to create highway planning corridors within which the public highways are to be designated and laid out in the future, and to post temporary development restrictions upon land within such corridors in advance of the time and exact location. To go on further, it says "the route and width of such layout is determined to provide a method of compensation for property owners whose proposed uses of land are limited or delayed by such temporary restrictions." In the section dealing with corridor protection, the partially or wholly prohibited development on the prescribed tract of land within the highway corridor is limited for a time or period not exceeding ten years.

**SENATOR HEATH:** I rise in opposition to this. I think it was well intended, but this is a thing that is going to come back and revisit us in a big way. This allows them to designate, essentially in a town, any place they want as a corridor and lays a shadow over that land. It will take out the potential for the owner to sell it for any purpose and the only way that the owner can get compensation, which would be due him by any public taking under the fifth amendment of the constitution in our own laws, is to apply for something and be refused. What is going to happen is that they are going to lay out shadows that they see a McDonald's coming. They will lay a shadow out there and it won't happen there. They'll see something else that they don't like and then somebody will take it to court. Then these towns will owe the compensation for years of taking these rights in



property away from people. The intent was to have a cheap way to get corridors without paying for them until they use them. It's like people coming into the grocery store and they get their groceries and take them home but until they open the can of soup they don't pay for it. It is not going to fly in the courts and somebody will take it to court; and when we get stretched out, our communities will get into trouble and they will point back to us for relief. I would urge you to send this to study and have some people look at it. Now I have already heard from one official from Senator Roberge's town. I think that when they see it, when the solicitors of the towns see it, they will get crazy. I know when the thing gets in operation this will bring a huge liability on towns because towns won't resist the temptation to abuse it. It also sets up an excellent formula for corruption within towns by the process of laying the shadow over a piece of land, having the person apply, be denied and get the town to sell the property. You get one selectman going with one landowner and you can have a bazaar and if you want to bring that kind of liability on your towns then support this. This is something that will be back and I promise you that this will be revisited in courts and there will be huge liabilities. If you look it over thoroughly, it is a half-baked idea. It is well intended and I am not suggesting subterfuge on the part of the people who wrote it, but it is not fleshed out and it is not thought out.

SENATOR HOLLINGWORTH: Have you moved Interim Study on this piece of legislation?

SENATOR HEATH: I haven't. I don't know if that would be parliamentarily in order.

SENATOR OLESON: I rise in support of HB 700. HB 700 was created by a blue ribbon committee which came out with more or less of a report and the bill that you have before you came in out of the House. The main sponsor of the bill is Beaton Marsh and the first question I asked Beaton when we had the hearing was, "Have you read this bill word by word?" When he said that he had, as far as I am concerned in my own mind I am not ashamed to say that in this House or Senate when Beaton Marsh puts his approval on anything you can be pretty sure that he knows what he is talking about. And anything that he has advocated in the past I was more than glad to take his word for it. But nevertheless, we had this hearing some two months ago. There were questions allowed at that time, and we kept delaying for two months just in case anybody did have any objections. They had the time to study the bill and come up with certain objections and enter amendments if it warranted that, or whatever action they might want to take. This morning we execed HB 700 and

the five that were present okayed the passage of HB 700 as written. I hope the Senate will go along with what the members of my Transportation Committee said. At the present time, as I understood it, nobody wanted to be put on record as rejecting it. One of the things that might happen, it will speed up certain actions that might be taking place. When you talk about clouds, we have eminent domain at the time, and anybody that has a piece of land along the highway in the state of New Hampshire might be under the cloud because of the rules and regulations and laws that we have in force at the present time. Another thing in favor, I think it will speed up the process. I've had certain projects — no doubt you all well know — that had to have certain approval, and it took from 1967 to 1987 to get it off the ground because of certain rules, regulations and mandates that have come down from up high. The cost went from \$5,000,000 to \$25,000,000 and I'll give you one guess who picked up that \$20,000,000 cost.

At the present time we have a highway that's been under study to a certain extent in the southern part of the state that began back in 1972 and is still under study. And would you like to guess how much the cost has escalated in that period of time? Just for this one reason, to speed up the process, I think they have plenty of protection. In fact, my family has about a mile straight along the highway in New Hampshire, land that belongs in the family, and this doesn't scare me bit, because I know sooner or later the road construction or whatever is going to be changed and even if we have a little doubt, the laws we have on the books will allow the highway to go through or the improvements to take place. I think this may be the most important bill to come out of the highway department this year and that is why the delay was made in my committee, to give people that ever had any good, hard-nosed, legitimate questions to come forward and we would clear it up before we ever brought this bill to your attention. I urge you strongly to pass HB 700, as written.

SENATOR HUMPHREY: I can see the advantages of this bill, but unfortunately I can also see the disadvantages which Senator Heath so well pointed out to us. I did support reporting it out this morning simply because we were running out of time in committee to do so, and I'm glad that Senator Heath has raised his objections. I share those same concerns and I would join with Senator Heath in urging that we take a little more time on this. It is true, as the chairman has said, that the bill has been in committee for two months but this is the time of the year it seems when so many things converge that people really don't have a chance to give things their due. It is a case of some bills that are not that controversial and it doesn't matter, but



this is a fairly controversial matter that could have the kind of serious implications which Senator Heath has suggested and therefore I think his call for a study is well taken.

Senator Delahunty move to Have HB 700-FN, Laid On The Table.

Adopted.

HB 700-FN, IS LAID ON THE TABLE.

SENATOR HEATH: I guess it would be proper for a rule 44. I serve on the Transportation Committee but my Wildlife Committee was meeting this morning and therefore I could not come to the execution session on this. I would have liked to come there and reiterate my objections when the committee was there. I just could not make it.

## **REPORT OF COMMITTEE ON ENROLLED BILLS**

### **Enrolled Bill Amendment to HB 692-FN**

Amend section 1 of the bill by replacing lines 2 and 3 with the following:

after RSA 402-E the following new chapter:

### **CHAPTER 402-F**

Amend RSA 402-E:5, I as inserted by section 1 of the bill by replacing line 3 with the following:

person is licensed as required by RSA 402-F:2, I.

Amend RSA 402-E:6, IV(i) as inserted by section 1 of the bill by replacing line 2 with the following:

permitted under RSA 402-F:8, IV, including the identity of

Amend RSA 402-E:6, X as inserted by section 1 of the bill by replacing line 7 with the following:

pursuant to RSA 402-F:8, III.

Amend RSA 402-E:8, I as inserted by section 1 of the bill by replacing line 3 with the following:

person is licensed as required by RSA 402-F:2.

Amend RSA 402-E:11, I as inserted by section 1 of the bill by replacing line 2 with the following:

under RSA 402-F:2.

Amend RSA 402-E:11, III as inserted by section 1 of the bill by replacing line 2 with the following:

RSA 402-F:9.

Amend the section numbers of RSA 402-E:1-11 to read as RSA 402-F:1-11.

Senator Currier moved to adopt.

Adopted.







































